

ESTTA Tracking number: **ESTTA1090881**

Filing date: **10/23/2020**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|------------------------|---|
| Proceeding | 92072819 |
| Party | Plaintiff Badawi Aviation, LLC |
| Correspondence Address | AVA K DOPPELT ALLEN DYER DOPPELT & GILCHRIST PA 255 SOUTH ORANGE AVENUE SUITE 1401 ORLANDO, FL 32801 UNITED STATES Primary Email: adoppelt@allendyer.com Secondary Email(s): mrodriguez@allendyer.com 407-841-2330 |
| Submission | Motion to Reopen |
| Filer's Name | Ava K. Doppelt |
| Filer's email | adoppelt@allendyer.com, mrodriguez@allendyer.com |
| Signature | /Ava K. Doppelt/ |
| Date | 10/23/2020 |
| Attachments | Motion to Reopen Non Confidential_Part1.pdf(5964705 bytes) Motion to Reopen Non Confidential_Part2.pdf(6266085 bytes) Motion to Reopen Non Confidential_Part3.pdf(6272083 bytes) Motion to Reopen Non Confidential_Part4.pdf(329813 bytes) |

MOTION TO REOPEN PART 1 of 4

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Registration No. 5,665,928
for the Mark **AFAF AVIATION & Design**

Badawi Aviation, LLC,

Petitioner,

Cancellation No: 92072819

vs.

Afaf Aviation, LLC,

Respondent.

**PETITIONER BADAWI AVIATION, LLC'S MOTION TO REOPEN TIME FOR
FILING ITS SUMMARY JUDGMENT MOTION**

Pursuant to TBMP 509.01(b), Badawi Aviation, LLC hereby moves The Trademark Trial and Appeal Board (the "Board" or "TTAB") to reopen the deadline for Petitioner to file its Motion for Summary Judgment. Good cause exists for this request for the reasons that follow:

Petitioner Badawi filed this cancellation action on November 22, 2019, seeking to cancel Registration No. 5665928. On the same date, the Board issued the Notice of Institution listing pre-trial and trial deadlines for the case.

Based on those dates, Badawi, through its counsel, entered the filing date into the law firm's automatic docketing system, thereby generating all the pretrial and trial deadlines in the case, along with reminders. These dates were duly displayed so that they could be reviewed by those regularly checking the docket. See, Declaration of Attorney Ava K. Doppelt attached hereto as Exhibit 1.

The Declaration of Attorney Doppelt, the responsible attorney for Petitioner in this case, describes in detail the manner in which the deadlines for matters, including cancellation actions such as this one, are generated and recorded by the firm's electronic software docketing system.

As set forth therein, the algorithm for generating the deadlines for summary judgment motions in TTAB matters was somehow set up incorrectly sometime during the twenty years the system has been in use. As a result the system generates an incorrect date for filing summary judgment motions in TTAB cases. The error affects everyone in the firm, because the docketing rules are firm-wide. Apparently the problem had never been discovered previously and corrected because no one had filed a motion for summary judgment in a TTAB matter, or at least none were filed at a time *after* the actual deadline for such motions specified in the TMEP rules. See *Decl.* ¶15.

As a result of the docketing error, Petitioner's motion for summary judgment in this case was attempted to be filed after the deadline for summary judgment motions had already passed. See Exhibit 2. According to the rule, the motion had to be filed before the day of the deadline for pretrial disclosures for the first testimony period. 37 CFR § 2.127(e)(1). In this case that deadline would therefore have been October 7, 2020. Instead, the docketing system generated a deadline of October 21, 2020, which is the date on which Badawi's counsel tried to file.

Because the reason for the late filing of Petitioner's summary judgment motion was the result of a long-ago programming error, causing the generation of an incorrect – and overdue – deadline for filing summary judgment motions in TTAB proceedings, it constitutes “excusable neglect.” Thus there is good cause to reopen the time for filing summary judgement motions in this case, and allow Petitioner's motion for summary judgment to be filed.

WHEREFORE, Petitioner asks that its motion to reopen the time to file its summary judgment motion be granted, and that it be given a new deadline by which to file its

summary judgment motion. Alternatively it requests that the copy of the summary judgment motion attached as Exhibit J to the Declaration be accepted as the filed motion.

Dated: October 23, 2020

Respectfully submitted,

/Ava K. Doppelt/

Ava K. Doppelt, Esq.

Allen, Dyer, Doppelt

& Gilchrist, P.A.

255 South Orange Avenue

Orlando, Florida 32801

Telephone: (407) 841-2330

Facsimile: (407) 841-2343

Email: adoppelt@allendyer.com

Attorney for Petitioner

Badawi Aviation, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 23, 2020, a copy of the foregoing was served via e-mail transmission on the following:

Todd Wengrovsky, Esq. - TW4823
Law Offices of Todd Wengrovsky, PLLC.
285 Southfield Road, Box 585
Calverton, NY 11933

*Attorney for Registrant
Afa Aviation, LLC*

/Michel Rodriguez/

Michel Rodriguez

Exhibit 1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Registration No. 5,665,928
for the Mark **AFAF AVIATION & Design**

Badawi Aviation, LLC,

Petitioner,

Cancellation No: 92072819

vs.

Afaf Aviation, LLC,

Respondent.

_____ /

**DECLARATION OF AVA K. DOPPELT IN SUPPORT OF PETITIONER BADAWI
AVIATION, LLC'S MOTION TO REOPEN TIME FOR FILING SUMMARY
JUDGMENT**

Ava K. Doppelt hereby declares and states as follows:

1. I am a shareholder in the intellectual property law firm Allen, Dyer, Doppelt & Gilchrist, P.A., and I am the lawyer representing the Petitioner in this case.
2. I have practiced at my firm, primarily in the areas of trademark and copyright law, for over thirty-seven years. During that time I have worked on and directed a significant number of trademark matters, including both oppositions and cancellations before the Trademark Trial and Appeal Board, for a wide array of clients ranging from individuals to Fortune 100 companies.
3. I am a Phi Beta Kappa graduate of Northwestern University and the New York University School of Law. I am a member in good standing of both the New York and Florida Bars, and am certified in intellectual property law by the Florida Bar.
4. I have written and spoken extensively on numerous trademark-related topics over the years, have taught trademark law at Barry University School of Law, and have been qualified as an expert witness.

5. When we file or receive a matter filed in the Trademark Trial and Appeal Board such as an opposition or cancellation action, I ask the trademark paralegal who has worked with our firm for fourteen years to immediately docket it in our firm's electronic trademark docketing system. That system is a component of our larger firm-wide integrated practice management system called AIM, Attorney's Information Manager, which is a part of Perfect Law All-In-One Software, a product developed by Executive Data Systems, Inc. (See Exhibit A).

6. When our firm first began using this system in 2000 for docketing (it docketed *all* matters, including trademarks, copyrights, patents, litigation and other due dates), the developer worked with us to create certain "rules" for the docketing of deadlines. For instance, if our client is served with a lawsuit in our local state circuit court, when we enter the date of service into the matter set up for that case, the rules, or algorithm, we created will *automatically generate* the deadline date for filing the answer. This is based on the fact that we created these rules to reflect any deadlines measured by time (e.g., a certain number of days from a particular event). Thus, if our court requires that an answer to a complaint be filed within twenty days, as it does, then the system will generate a date twenty days from service and display that date as the deadline for response.

7. It works the same way in TTAB matters. In this case we filed the Petition to Cancel on November 22, 2019. On the same date we received the Board's Notice of Initiation, which sets forth the deadlines for pretrial and trial.

8. One deadline that is not specified in the Notice is the deadline for filing dispositive motions such as for summary judgment.

9. As soon as we receive the Notice, we (our paralegals) type into the system the date of that Notice, and the system, again, automatically generates *all* the pretrial and trial dates. These

dates are based on the rules that were created for our system twenty years ago, although we make modifications to reflect any changes in the court rules or administrative deadline rules (including those of the TTAB).

10. Likewise, we re-calibrate the deadlines if there is a change in a particular case. That happened in this case because we filed a motion to compel, which suspended the deadlines. After the motion was resolved, the Board issued a new scheduling order (on July 8, 2020), and when we entered the new date from that order all the other deadlines were automatically re-calculated.

11. Exhibit B attached shows a screenshot of the remaining AIM docket for this case, beginning with the deadline for the summary judgement motion. It displays the deadline as **October 21, 2020**, which is the date we tried to file our motion.

12. Our office planned to prepare and file our motion for summary judgment by this date. We also advised the client of this deadline.

13. That date was generated by our system's docketing rules for TTAB matters, shown in Exhibit C. This list of dates shows that the deadline for dispositive motions is fifteen days from the date the pretrial disclosures are due.

14. Unfortunately, as it turns out, this is *not* the correct date. And unfortunately, *all* TTAB matters in our office show an incorrect deadline for summary judgment motions, because all use the same rule to generate the deadlines. See, e.g., Exhibits D-I attached (client names are redacted).

15. Apparently, we never discovered this error until now, because we don't often file motions for summary judgment in TTAB cases. I don't recall that I ever have previously done so.

16. My staff and I are devastated by this occurrence. We rely every day on the deadlines generated by our docketing system, and we must feel confident that those deadlines are accurate. It would not be practical to check the rule for every deadline “just in case.”

17. To my knowledge, this is the first time our system failed us by automatically generating an incorrect deadline and causing us to miss the actual deadline.

18. I should have reviewed the summary judgment rules to verify that our docketing system was correct, although by the time I would have checked, the actual deadline would likely have passed. But in the twenty years I have used AIM for docketing, I have come to rely on its accuracy.

19. I believe that the circumstances here constitute excusable neglect and good cause sufficient to allow the reopening of time to file the motion. In what is perhaps an excess of optimism, I am enclosing a copy of our motion as Exhibit J.

20. When we tried to file electronically on October 21, 2021, we received a notice that the motion was untimely. See Exhibit K.

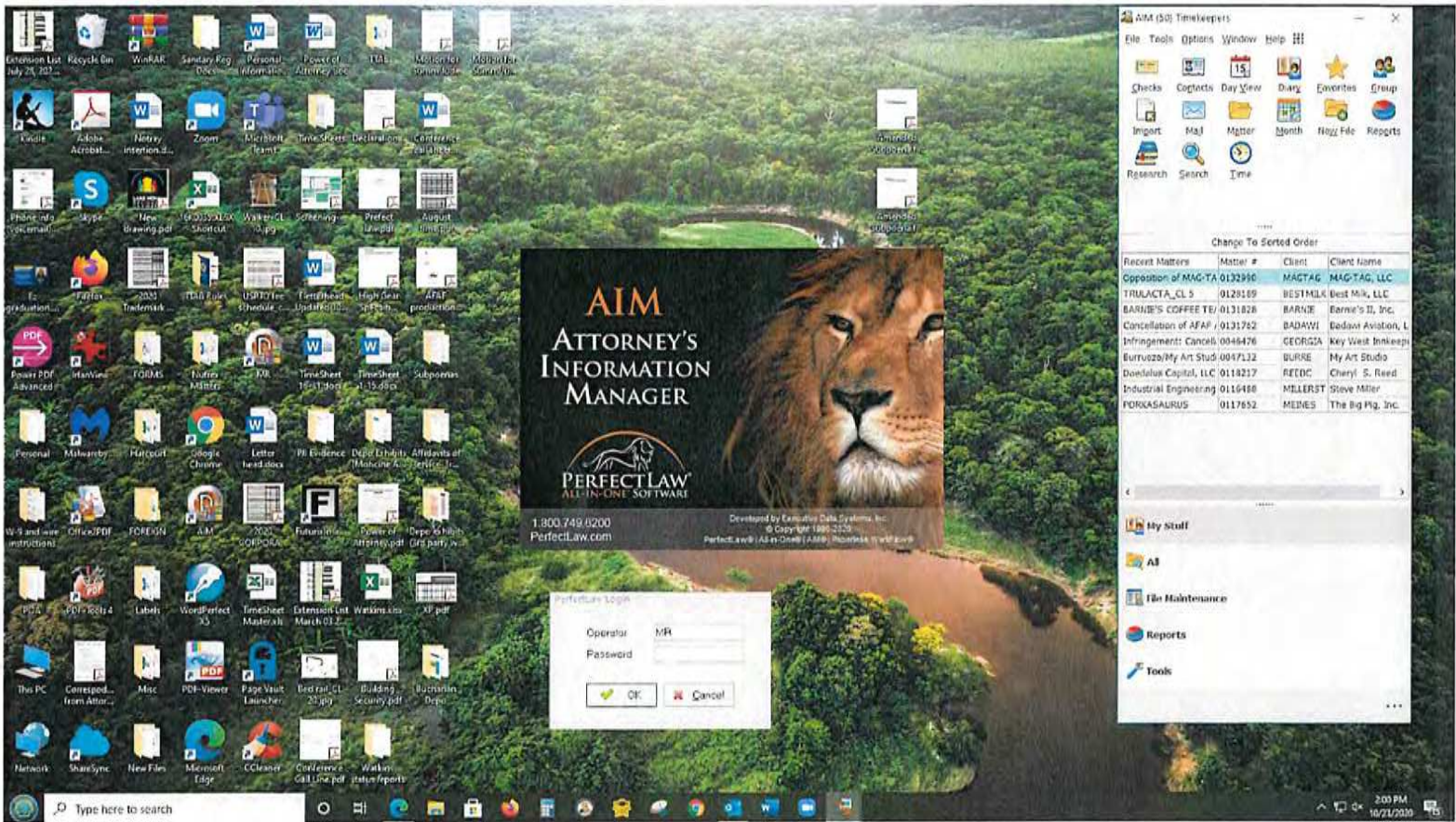
21. This was the first time we had any inkling that our motion was overdue. We emailed and Fed Ex'd the motion to the Board on the same day, but we fervently hope that we will be permitted to file it properly, within the additional time allowed to us by the Board.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Dated: October 23, 2020


Ava K. Doppelt

EXHIBIT A



AIM (30) Timekeepers

File Tools Options Window Help

Checks Contacts Day View Diary Favorites Group

Import Mail Matter Month Rptz File Reports

Research Search Time

Change To Sorted Order

| Recent Matters | Matter # | Client | Client Name |
|------------------------|----------|----------|--------------------|
| Opposition of MAG-TA | 0129390 | MAGTAG | MAG-TAG, LLC |
| TRULACTA_CL 5 | 0128189 | BESTMILK | Best Milk, LLC |
| BARNIE'S COFFEE TE/ | 0131828 | BARNIE | Barnie's II, Inc. |
| Cancellation of AFAP | 0131762 | BADAWI | Badawi Aviation, L |
| Infringement: Cancal | 0948476 | GEORGIA | Key West Inkkeep |
| Burruezo/My Art Stud | 0947132 | BURRE | My Art Studio |
| Donsalus Capital, LLC | 0118217 | REEDC | Cheryl S. Reed |
| Industrial Engineering | 0116468 | MILLERST | Steve Miller |
| PORCASAURUS | 0117652 | MEBES | The Big Pig, Inc. |

My Stuff


All

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Reports

Tools

AIM
ATTORNEY'S
INFORMATION
MANAGER



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PerfectLaw Login

Operator: MR

Password: _____

OK Cancel

EXHIBIT B

10/24/1970 - 10/23/2021

File Edit Appointment Edit Help

Matter Matter Notes Client Client Notes Financial Contacts DocLinks Related Matters Favorites Appointments Completed Canceled TTAB Goods & Services Assignment U.S. Trademark Bucket

Starts with (F12) Task Code

| Day Scheduled | Description | Attorneys | Rule |
|-------------------------|---|-----------|----------|
| • Wed 10/21/2020 | > Deadline for dispositive motions, summary judgment | AKD | Z-TTABTR |
| † Thu 10/22/2020 | > Plaintiff testimony opens | AKD | Z-TTABTR |
| † Sun 11/01/2020 | Reminder testimony closes and notice of reliance due 11/21 | AKD | Z-TTABTR |
| † Mon 11/09/2020 | Reminder testimony closes and notice of reliance due 11/21 | AKD | Z-TTABTR |
| † Mon 11/16/2020 | Reminder testimony closes and notice of reliance due 11/21 | AKD | Z-TTABTR |
| † Sat 11/21/2020 | > Plaintiff testimony closes; Deadline to submit notice of rel | AKD | Z-TTABTR |
| † Thu 11/26/2020 | > Reminder Defendant - Pretrial disclosure deadline 29 days | AKD | Z-TTABTR |
| † Sun 12/06/2020 | > Defendant's pretrial disclosure due | AKD | Z-TTABTR |
| † Sun 12/13/2020 | > Deadline for objections to defendant's pretrial disclosures | AKD | Z-TTABTR |
| † Mon 12/21/2020 | > Defendant's testimony opens | AKD | Z-TTABTR |
| † Wed 01/20/2021 | > Defendant's testimony closes; Deadline to submit notice of | AKD | Z-TTABTR |
| † Thu 02/04/2021 | > Plaintiff rebuttal disclosure due | AKD | Z-TTABTR |
| † Thu 02/18/2021 | > Deadline for objections to plaintiff's rebuttal pretrial disc | AKD | Z-TTABTR |
| † Fri 02/19/2021 | > Plaintiff rebuttal opens | AKD | Z-TTABTR |
| † Sat 03/06/2021 | > Plaintiff rebuttal closes | AKD | Z-TTABTR |
| † Wed 05/05/2021 | > Plaintiff trial brief due | AKD | Z-TTABTR |
| † Fri 06/04/2021 | > Defendant trial brief due | AKD | Z-TTABTR |
| † Sat 06/19/2021 | > Plaintiff rebuttal brief due | AKD | Z-TTABTR |
| † Tue 06/29/2021 | > Deadline to request oral argument | AKD | Z-TTABTR |

EXHIBIT C

Generate Rule Appointments -

File Edit Help

Client
 Matter 012130
 Set Code TMS
 Rule Code ZTTABTR
 Auto Assigned AYD
 Base Date 10/23/20

[Redacted]

Trademark US
 TTAB Trial Schedule

Holiday/Weekend Shifts Backward

Show Rule Details Online

| Seq No | Event ID | Interval | Relative 1 | Rel Event ID | Activity Date | Atty | Hst | Skip | SDate | Description |
|--------|----------|----------|------------|--------------|---------------|------|-----|------|-------|---|
| 1 | CMS | | | | 10/23/20 Fri | | | | | TTAB order instituting opposition/cancellation |
| 2 | REM | 7D | 1 | | 10/30/20 Fri | | | | | Report trial schedule to client |
| 3 | ANS | 40D | 1 | | 12/02/20 Wed | | | | | Defendant's answer due |
| 4 | DEA | 30D | 3 | | 01/01/21 Fri | | | | | Discovery conference deadline, same day as discovery opens |
| 5 | REM | -15D | 4 | | 12/17/20 Thu | | | | | Reminder Discovery conference deadline in 15 days |
| 6 | DISO | 30D | 3 | | 01/01/21 Fri | | | | | Discovery opens |
| 7 | DEAB | -10D | 6 | | 12/22/20 Tue | | | | | Deadline to request board participation in discovery |
| 8 | DEAI | 30D | 6 | | 01/31/21 Sun | | | | | Deadline for initial disclosures |
| 9 | DEAS | -1D | 8 | | 01/30/21 Sat | | | | | Deadline for sanction motions relating to discovery |
| 10 | REM | -25D | 8 | | 01/05/21 Wed | | | | | Reminder Initial disclosures deadline in 25 days (prerequisite for serving discovery) |
| 11 | DISC | 180D | 6 | | 06/30/21 Wed | | | | | Discovery closes; deadline rebuttal expert disclosures; deadline to motion to compel disclosures |
| 12 | DISP | -30D | 11 | | 05/31/21 Mon | | | | | Deadline expert disclosures |
| 13 | TFPC | 90D | 11 | | 09/28/21 Tue | | | | | Plaintiff testimony closes; Deadline to submit notice of reliance. |
| 14 | TFPO | -30D | 13 | | 08/29/21 Sun | | | | | Plaintiff testimony opens |
| 15 | FPD | -15D | 14 | | 08/14/21 Sat | | | | | Plaintiff pretrial disclosure due |
| 16 | REM | -25D | 15 | | 07/20/21 Tue | | | | | Reminder Plaintiff - Pretrial disclosures deadline 25 days (prerequisite for testimony depositions) |
| 17 | DEA | -1D | 14 | | 08/28/21 Sat | | | | | Deadline for objections to plaintiff's pretrial disclosures |
| 18 | DISO | 1D | 14 | | 08/28/21 Sat | | | | | Deadline for dispositive motions, summary judgment |
| 19 | TPDC | 60D | 13 | | 11/27/21 Sat | | | | | Defendant's testimony closes; Deadline to submit notice of reliance. |
| 20 | TPDO | -30D | 19 | | 10/28/21 Thu | | | | | Defendant's testimony opens |
| 21 | DFD | -15D | 20 | | 10/13/21 Wed | | | | | Defendant's pretrial disclosure due |
| 22 | REM | -25D | 20 | | 10/31/21 Sun | | | | | Reminder Defendant - Pretrial disclosure deadline 25 days (prerequisite for testimony depositions) |
| 23 | DEA | -1D | 20 | | 10/27/21 Wed | | | | | Deadline for objections to defendant's pretrial disclosures |
| 24 | RPC | 45D | 19 | | 01/11/22 Tue | | | | | Plaintiff rebuttal closes |
| 25 | RPO | -15D | 24 | | 12/27/21 Mon | | | | | Plaintiff rebuttal opens |
| 26 | RPD | -15D | 25 | | 12/12/21 Sun | | | | | Plaintiff rebuttal disclosure due |
| 27 | DEA | -1D | 25 | | 12/26/21 Sun | | | | | Deadline for objections to plaintiff's rebuttal pretrial disclosures |
| 28 | BRFP | 60D | 24 | | 03/12/22 Sat | | | | | Plaintiff trial brief due |

EXHIBIT D

10/21/2020 - 10/23/2020

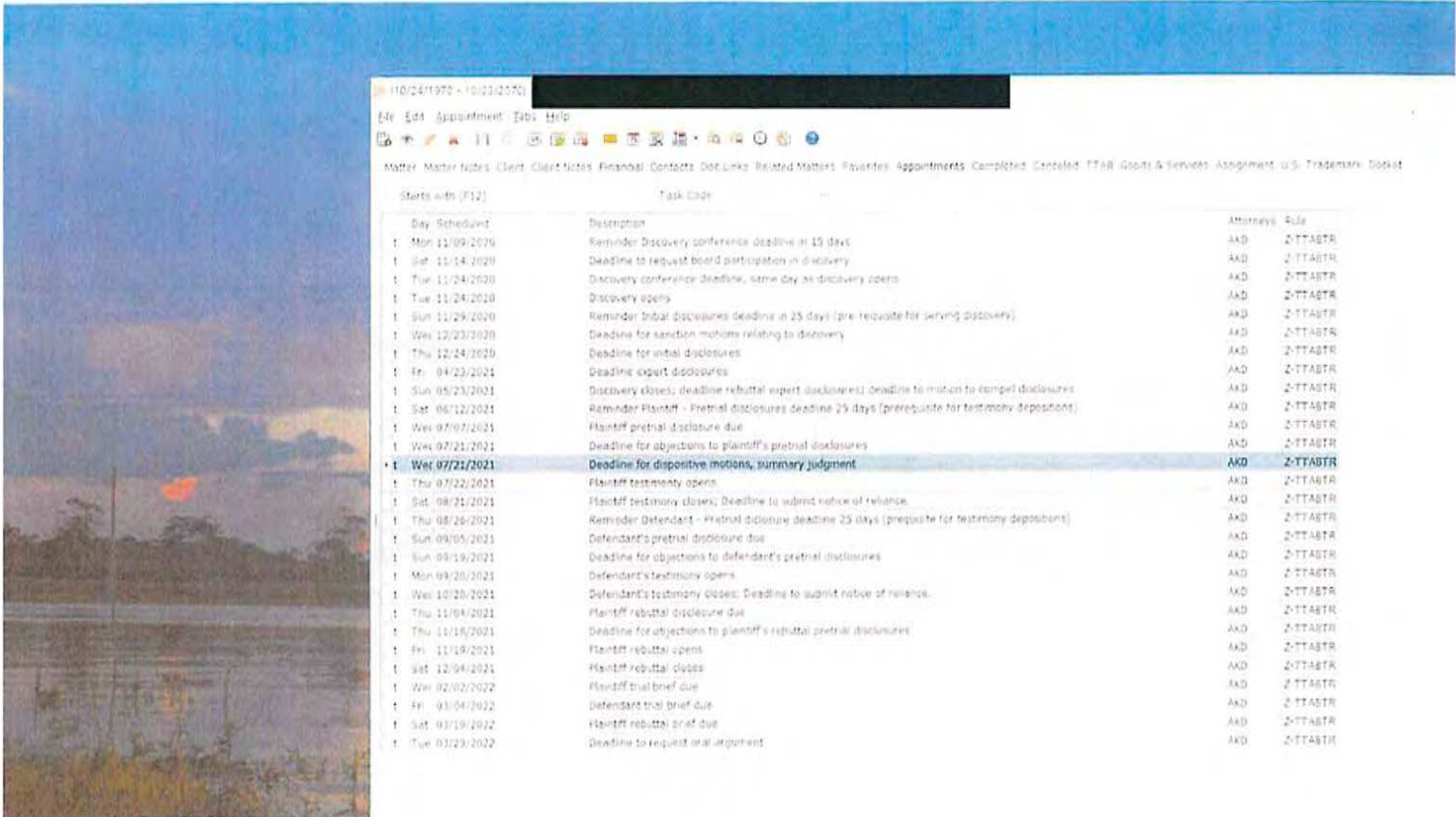
File Edit Appointment [Alt] Ctrl

Matter Matter Dates Client Client Dates Financial Contacts Doc (aka Related Matters) Financial Appointments Completed Canceled TTAB Code & Service Assignment W/S Testimony Docset

| Starts with (112) | Task Code | Attorneys | Due |
|-----------------------|--|------------|-----------------|
| Sat 01/16/2021 | Deadline expert disclosures | AxD | 2-TTABTR |
| Mon 02/15/2021 | Discovery closes; deadline rebuttal expert disclosures; deadline to motion to compel discovery | AxD | 2-TTABTR |
| Sun 03/07/2021 | Reminder Plaintiff - Pretrial disclosures deadline 25 days (prerequisite for testimony deposition) | AxD | 2-TTABTR |
| Thu 04/01/2021 | Plaintiff pretrial disclosure due | AxD | 2-TTABTR |
| Thu 04/15/2021 | Deadline for objections to plaintiff's pretrial disclosures | AxD | 2-TTABTR |
| Thu 04/15/2021 | > Deadline for dispositive motions, summary judgment | AxD | 2-TTABTR |
| Fri 04/16/2021 | Plaintiff testimony opens | AxD | 2-TTABTR |
| Sun 05/16/2021 | Plaintiff testimony closes; Deadline to submit notice of reliance | AxD | 2-TTABTR |
| Fri 05/21/2021 | Reminder Defendant - Pretrial disclosure deadline 25 days (prerequisite for testimony deposition) | AxD | 2-TTABTR |
| Mon 05/31/2021 | Defendant's pretrial disclosure due | AxD | 2-TTABTR |
| Mon 06/14/2021 | Deadline for objections to defendant's pretrial disclosures | AxD | 2-TTABTR |
| Tue 06/15/2021 | Defendant's testimony opens | AxD | 2-TTABTR |
| Thu 07/15/2021 | Defendant's testimony closes; Deadline to submit notice of reliance | AxD | 2-TTABTR |
| Fri 07/30/2021 | Plaintiff rebuttal disclosure due | AxD | 2-TTABTR |
| Fri 08/13/2021 | Deadline for objections to plaintiff's rebuttal pretrial disclosures | AxD | 2-TTABTR |
| Sat 08/14/2021 | Plaintiff rebuttal opens | AxD | 2-TTABTR |
| Sun 08/29/2021 | Plaintiff rebuttal closes | AxD | 2-TTABTR |
| Thu 10/26/2021 | Plaintiff trial brief due | AxD | 2-TTABTR |
| Sat 11/27/2021 | Defendant trial brief due | AxD | 2-TTABTR |
| Sun 12/12/2021 | Plaintiff rebuttal brief due | AxD | 2-TTABTR |
| Wed 12/22/2021 | Deadline to Request oral argument | AxD | 2-TTABTR |

> Deadline for dispositive motions, summary judgment

EXHIBIT E



10/24/1970 - 10/23/2070

File Edit Appointment Tools Help

Master Master notes Client Client notes Financial Contacts Doc Links Related Matters Favorites Appointments Completed Deleted TTab Goals & Services Assignment u.s. Trademarks Social

| Starts with (712) | Task Code | | |
|-------------------|-----------------------|---|---------------------|
| Day | Scheduled | Description | Attorneys A/E |
| 1 | Mon 11/09/2020 | Reminder Discovery conference deadline in 15 days | AKD 2-TTABTR |
| 1 | Tue 11/14/2020 | Deadline to request board participation in discovery | AKD 2-TTABTR |
| 1 | Tue 11/24/2020 | Discovery conference deadline, same day as discovery opens | AKD 2-TTABTR |
| 1 | Tue 11/24/2020 | Discovery opens | AKD 2-TTABTR |
| 1 | Sun 11/29/2020 | Reminder Initial disclosures deadline in 25 days (pre- requisite for serving discovery) | AKD 2-TTABTR |
| 1 | Wed 12/23/2020 | Deadline for sanction motions relating to discovery | AKD 2-TTABTR |
| 1 | Thu 12/24/2020 | Deadline for initial disclosures | AKD 2-TTABTR |
| 1 | Fri 04/23/2021 | Deadline expert disclosures | AKD 2-TTABTR |
| 1 | Sun 05/23/2021 | Discovery closes; deadline rebuttal expert disclosures; deadline to motion to compel disclosures | AKD 2-TTABTR |
| 1 | Sat 06/12/2021 | Reminder Plaintiff - Pretrial disclosures deadline 25 days (prerequisite for testimony depositions) | AKD 2-TTABTR |
| 1 | Wed 07/07/2021 | Plaintiff pretrial disclosure due | AKD 2-TTABTR |
| 1 | Wed 07/21/2021 | Deadline for objections to plaintiff's pretrial disclosures | AKD 2-TTABTR |
| 1 | Wed 07/21/2021 | Deadline for dispositive motions, summary judgment | AKD 2-TTABTR |
| 1 | Thu 07/22/2021 | Plaintiff testimony opens | AKD 2-TTABTR |
| 1 | Sat 08/21/2021 | Plaintiff testimony closes; Deadline to submit notice of reliance | AKD 2-TTABTR |
| 1 | Thu 08/26/2021 | Reminder Defendant - Pretrial disclosure deadline 25 days (prerequisite for testimony depositions) | AKD 2-TTABTR |
| 1 | Sun 09/05/2021 | Defendant's pretrial disclosure due | AKD 2-TTABTR |
| 1 | Sun 09/19/2021 | Deadline for objections to defendant's pretrial disclosures | AKD 2-TTABTR |
| 1 | Mon 09/20/2021 | Defendant's testimony opens | AKD 2-TTABTR |
| 1 | Wed 10/20/2021 | Defendant's testimony closes; Deadline to submit notice of reliance | AKD 2-TTABTR |
| 1 | Thu 11/04/2021 | Plaintiff rebuttal disclosure due | AKD 2-TTABTR |
| 1 | Thu 11/04/2021 | Deadline for objections to plaintiff's rebuttal pretrial disclosures | AKD 2-TTABTR |
| 1 | Fri 11/19/2021 | Plaintiff rebuttal opens | AKD 2-TTABTR |
| 1 | Sat 12/04/2021 | Plaintiff rebuttal closes | AKD 2-TTABTR |
| 1 | Wed 02/02/2022 | Plaintiff trial brief due | AKD 2-TTABTR |
| 1 | Fri 03/04/2022 | Defendant trial brief due | AKD 2-TTABTR |
| 1 | Sat 03/19/2022 | Plaintiff rebuttal brief due | AKD 2-TTABTR |
| 1 | Tue 03/22/2022 | Deadline to request oral argument | AKD 2-TTABTR |

EXHIBIT F

10/24/2020 - 10/23/2020

File Edit Appointment Jobs PDF

Matter: Matter Notes Client Client Notes Financial Contacts Doc Links Related Matters Favorites Appointments Completed Canceled TTAB Goods & Services Assignment U.S. Trademark Docket

Starts with (112) Task Case

| Day Scheduled | Description | Attorneys | Rule |
|----------------|---|-----------|----------|
| Mon 04/06/2020 | Report trial schedule to client | DLS | 2-TTABTR |
| Tue 06/29/2020 | Reminder- our answer is due 7/8/2020 | DLS | |
| Wed 07/08/2020 | Our answer due | DLS | 2-TTABTR |
| Thu 07/23/2020 | Reminder Discovery conference deadline in 15 days | DLS | 2-TTABTR |
| Tue 07/28/2020 | Deadline to request board participation in discovery | DLS | 2-TTABTR |
| Fri 08/07/2020 | Discovery conference deadline, same day as discovery opens | DLS | 2-TTABTR |
| Fri 08/07/2020 | Discovery opens | DLS | 2-TTABTR |
| Wed 08/12/2020 | Reminder initial disclosures deadline in 25 days (pre- requisite for serving discovery) | DLS | 2-TTABTR |
| Sat 09/05/2020 | Deadline for sanction motions relating to discovery | DLS | 2-TTABTR |
| Sun 09/06/2020 | Deadline for initial disclosures | DLS | 2-TTABTR |
| Mon 01/04/2021 | Deadline expert disclosures | DLS | 2-TTABTR |
| Wed 02/03/2021 | Discovery closes; deadline rebuttal expert disclosures; deadline to motion to compel disclosures | DLS | 2-TTABTR |
| Tue 02/23/2021 | Reminder Plaintiff - Pretrial disclosures deadline 25 days (prerequisite for testimony depositions) | DLS | 2-TTABTR |
| Sat 03/20/2021 | Plaintiff pretrial disclosure due | DLS | 2-TTABTR |
| Sat 04/03/2021 | Deadline for objections to plaintiff's pretrial disclosures | DLS | 2-TTABTR |
| Sat 04/03/2021 | Deadline for dispositive motions, summary judgment | DLS | 2-TTABTR |
| Sun 04/04/2021 | Plaintiff testimony opens | DLS | 2-TTABTR |
| Tue 05/04/2021 | Plaintiff testimony closes; Deadline to submit PACE OF PERSICION | DLS | 2-TTABTR |
| Sun 05/09/2021 | Reminder Defendant - Pretrial disclosure deadline 25 days (prerequisite for testimony depositions) | DLS | 2-TTABTR |
| Wed 05/19/2021 | Defendant's pretrial disclosure due | DLS | 2-TTABTR |
| Wed 06/02/2021 | Deadline for objections to defendant's pretrial disclosures | DLS | 2-TTABTR |
| Thu 06/03/2021 | Defendant's testimony opens | DLS | 2-TTABTR |
| Sat 07/03/2021 | Defendant's testimony closes; Deadline to submit notice of reliance | DLS | 2-TTABTR |
| Sun 07/18/2021 | Plaintiff rebuttal disclosure due | DLS | 2-TTABTR |
| Sun 08/01/2021 | Deadline for objections to plaintiff's rebuttal pretrial disclosures | DLS | 2-TTABTR |
| Mon 08/02/2021 | Plaintiff rebuttal opens | DLS | 2-TTABTR |
| Tue 08/17/2021 | Plaintiff rebuttal closes | DLS | 2-TTABTR |
| Sat 10/16/2021 | Plaintiff trial brief due | DLS | 2-TTABTR |
| Mon 11/15/2021 | Defendant trial brief due | DLS | 2-TTABTR |
| Tue 11/30/2021 | Plaintiff rebuttal brief due | DLS | 2-TTABTR |
| Fri 12/10/2021 | Deadline to request oral argument | DLS | 2-TTABTR |

EXHIBIT G

(10/24/1970 - 10/23/2070)
 File Edit Appointment Tabs Help
 Matter Matter Notes Client Client Notes Financial Contacts Doc Links Related Matters Favorites Appointments Completed Canceled TTAB Goods & Services Assignment Docket U.S. Trademark

| Day Scheduled | Description | Attorneys Rule |
|----------------|---|---------------------------|
| Fri 11/06/2020 | Defendant's answer due | DR SVA RJ 2-TTASTR |
| Sat 11/21/2020 | Reminder Discovery conference deadline in 15 days | DR SVA RJ 2-TTASTR |
| Sun 12/06/2020 | Discovery opens (Press INVERT to add new entry, ENTER to edit by opens) | DR SVA RJ 2-TTASTR |
| Sun 12/06/2020 | Discovery opens | DR SVA RJ 2-TTASTR |
| Fri 12/11/2020 | Reminder Initial disclosures deadline in 25 days (pre- requisite for serving discovery) | DR SVA RJ 2-TTASTR |
| Sat 12/26/2020 | Deadline to request board participation in discovery | DR SVA RJ 2-TTASTR |
| Mon 01/04/2021 | Deadline for sanction motions relating to discovery | DR SVA RJ 2-TTASTR |
| Tue 01/05/2021 | Deadline for initial disclosures | DR SVA RJ 2-TTASTR |
| Wed 05/05/2021 | Deadline expert disclosures | DR SVA RJ 2-TTASTR |
| Fri 06/04/2021 | Discovery closes; deadline rebuttal expert disclosures; deadline to motion to compel disclosures | DR SVA RJ 2-TTASTR |
| Thu 06/24/2021 | Reminder Plaintiff - Pretrial disclosures deadline 25 days (prerequisite for testimony depositions) | DR SVA RJ 2-TTASTR |
| Mon 07/19/2021 | Plaintiff pretrial disclosure due | DR SVA RJ 2-TTASTR |
| Mon 08/02/2021 | Deadline for objections to plaintiff's pretrial disclosures | DR SVA RJ 2-TTASTR |
| Mon 08/02/2021 | Deadline for dispositive motions, summary judgment | DR SVA RJ 2-TTASTR |
| Tue 08/03/2021 | Plaintiff testimony opens | DR SVA RJ 2-TTASTR |
| Thu 09/02/2021 | Plaintiff testimony closes: Deadline to submit notice of reliance. | DR SVA RJ 2-TTASTR |
| Tue 09/07/2021 | Reminder Defendant - Pretrial disclosure deadline 15 days (prerequisite for testimony depositions) | DR SVA RJ 2-TTASTR |
| Fri 09/17/2021 | Defendant's pretrial disclosure due | DR SVA RJ 2-TTASTR |
| Fri 10/01/2021 | Deadline for objections to defendant's pretrial disclosures | DR SVA RJ 2-TTASTR |
| Sat 10/02/2021 | Defendant's testimony opens | DR SVA RJ 2-TTASTR |
| Mon 11/01/2021 | Defendant's testimony closes: Deadline to submit notice of reliance. | DR SVA RJ 2-TTASTR |
| Tue 11/16/2021 | Plaintiff rebuttal disclosure due | DR SVA RJ 2-TTASTR |
| Tue 11/30/2021 | Deadline for objections to plaintiff's rebuttal pretrial disclosures | DR SVA RJ 2-TTASTR |
| Wed 12/01/2021 | Plaintiff rebuttal opens | DR SVA RJ 2-TTASTR |
| Thu 12/16/2021 | Plaintiff rebuttal closes | DR SVA RJ 2-TTASTR |
| Mon 02/14/2022 | Plaintiff trial brief due | DR SVA RJ 2-TTASTR |
| Wed 03/16/2022 | Defendant trial brief due | DR SVA RJ 2-TTASTR |
| Thu 03/31/2022 | Plaintiff rebuttal brief due | DR SVA RJ 2-TTASTR |
| Sun 04/10/2022 | Deadline to request oral argument | DR SVA RJ 2-TTASTR |

EXHIBIT H

11/24/1970 - 12/23/2020

File Edit Appointment Tabs Help

Matter Matter notes Client Client notes Financial Contacts Doc Links Related Matters Favorites Appointments Completed Canceled TTAG Goods & Services Assignment U.S. Trademark Docket

Starts with (F12)

| Day Scheduled | Description | Attorneys | Rule |
|----------------------------------|---|-----------|----------|
| 1 Wed 06/10/2020 | -> Deadline to respond to GoCo's Motion to Compel served 5/21/20 (they get 20 days for reply) | DLS RTS | |
| 1 Mon 06/29/2020 | -> Reminder 7/27/20 is Deadline for dispositive motions, summary judgment (and Motion to Compel Discovery) | DLS RTS | |
| 1 Tue 06/30/2020 | -> FYI -> Deadline for GoCo to file Reply in support of its Motion to Compel (20 days after 6/10 response) | DLS RTS | |
| 1 Mon 09/28/2020 | -> Reminder 10/05/20 is Absolute Deadline for CoAdvantage to serve discovery to meet 11/04/20 cutoff | DLS RTS | |
| 1 Mon 10/05/2020 | -> Deadline for CoAdvantage to serve discovery to meet 11/04/20 cutoff | DLS RTS | |
| 1 Mon 10/12/2020 | -> Reminder 10/21/20 is Deadline for CoAdvantage to provide supplemental discovery responses, documents, and privilege log per TTAG's 9/21/20 Order | DLS RTS | |
| 1 Wed 10/21/2020 | -> Deadline for CoAdvantage to provide supplemental discovery responses, documents, and privilege log per TTAG's 9/21/20 Order | DLS RTS | |
| 3 Mon 11/02/2020 9:00am - 5:00pm | -> Deposition (via Video and weblink) of Goto is (RTS to handle) (See Vertex's 10/22/201 email) | DLS RTS | |
| 1 Wed 11/04/2020 | -> Discovery Closes for Respondent, CoAdvantage | DLS RTS | |
| 1 Wed 11/04/2020 | -> FYI -> Deadline for GoCo to respond to CoAdvantage's (1) 2nd Request for Production and (2) 2nd Interrogatories | DLS RTS | |
| 1 Mon 12/21/2020 | -> Discovery cutoff for Petitioner - GoCo | DLS RTS | |
| 1 Fri 01/08/2021 | -> Reminder Plaintiff - Pretrial disclosures deadline 25 days (prerequisite for testimony depositions) | DLS RTS | 2-TTABTR |
| 1 Tue 02/02/2021 | -> Plaintiff pretrial disclosure due | DLS RTS | 2-TTABTR |
| 1 Tue 02/16/2021 | -> Deadline for objections to plaintiff's pretrial disclosures | DLS RTS | 2-TTABTR |
| 1 Tue 02/16/2021 | -> Deadline for dispositive motions, summary judgment (and Motions to Compel Discovery) | DLS RTS | 2-TTABTR |
| 1 Wed 02/17/2021 | -> Plaintiff testimony opens | DLS RTS | 2-TTABTR |
| 1 Fri 03/19/2021 | -> Plaintiff testimony closes; Deadline to submit notice of reliance. | DLS RTS | 2-TTABTR |
| 1 Wed 03/24/2021 | -> Reminder Defendant - Pretrial disclosure deadline 25 days (prerequisite for testimony depositions) | DLS RTS | 2-TTABTR |
| 1 Sat 04/03/2021 | -> Defendant's pretrial disclosure due | DLS RTS | 2-TTABTR |
| 1 Sat 04/17/2021 | -> Deadline for objections to defendant's pretrial disclosures | DLS RTS | 2-TTABTR |
| 1 Sun 04/18/2021 | -> Defendant's testimony opens | DLS RTS | 2-TTABTR |
| 1 Tue 05/18/2021 | -> Defendant's testimony closes; Deadline to submit notice of reliance. | DLS RTS | 2-TTABTR |
| 1 Wed 06/02/2021 | -> Plaintiff rebuttal disclosure due | DLS RTS | 2-TTABTR |
| 1 Wed 06/16/2021 | -> Deadline for objections to plaintiff's rebuttal pretrial disclosures | DLS RTS | 2-TTABTR |
| 1 Thu 06/17/2021 | -> Plaintiff rebuttal opens | DLS RTS | 2-TTABTR |
| 1 Fri 07/02/2021 | -> Plaintiff rebuttal closes. | DLS RTS | 2-TTABTR |
| 1 Tue 08/31/2021 | -> Plaintiff trial brief due | DLS RTS | 2-TTABTR |
| 1 Thu 09/30/2021 | -> Defendant trial brief due | DLS RTS | 2-TTABTR |
| 1 Fri 10/15/2021 | -> Plaintiff rebuttal brief due | DLS RTS | 2-TTABTR |
| 1 Mon 10/25/2021 | -> Deadline to request oral argument | DLS RTS | 2-TTABTR |

-> Deadline for dispositive motions, summary judgment (and Motions to Compel Discovery)

EXHIBIT I

10/24/2020 - 10/23/2020

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Matter Matter Notes Client Client Notes Financial Contacts Doc Links Related Matters Favorites Appointments Completed Canceled TTAB Goods & Services Assignment U.S. Trademark Docket

Starts with (F12) Task Code

| Day | Scheduled | Description | Attorneys | Rule |
|-----|--------------------------------|--|--------------------|------|
| a | Wed 01/29/2020 2:30pm - 3:00pm | > Hold open for conference call with client | BRG SVA | |
| a | Mon 02/03/2020 8:00am - 6:00pm | > Hold open for depo prep/depos | BRG SVA | |
| a | Tue 02/04/2020 8:00am - 6:00pm | > Hold open for depo prep/depos | BRG SVA | |
| a | Tue 02/04/2020 2:00pm - 5:00pm | > 0128019 Deposition of Respondent Denali 30b6 Corp Rep via Dial-In #772-617-8315 Conf ID 501667 (Depositor in Anchorage Alaska) | SVA BRG | |
| a | Wed 02/05/2020 8:00am - 6:00pm | > Hold open for depo prep/depos | BRG SVA | |
| a | Fri 02/07/2020 2:30pm - 5:30pm | > 0128016 Deposition of Respondent Denali 30b6 Corp Rep via Dial-In #772-617-8315 Conf ID 501667 [10:30 AM Alaska Time] | BRG SVA | |
| t | Wed 02/25/2020 | > Deadline expert disclosures | BRG DLS S 2-TTABTR | |
| t | Fri 04/24/2020 | > Discovery closes; Deadline rebuttal expert disclosures; Deadline to motion to compel disclosures (extended per 09.26.19 order) | BRG DLS S 2-TTABTR | |
| t | Sun 04/26/2020 | > Deadline for objections to plaintiff's pretrial disclosures (extended per 09.26.19 order) | BRG | |
| t | Sun 04/26/2020 | > Plaintiff testimony closes; Deadline to submit notice of reliance | BRG | |
| t | Fri 05/01/2020 | > Reminder Defendant - Pretrial disclosure deadline 25 days (prerequisite for testimony depositions) | BRG | |
| t | Mon 05/11/2020 | > Defendant's pretrial disclosure due | BRG | |
| t | Mon 05/18/2020 | > Reminder Plaintiff - Pretrial disclosure deadline 25 days (prerequisite for testimony depositions) | BRG DLS S 2-TTABTR | |
| t | Mon 05/25/2020 | > Deadline for objections to defendant's pretrial disclosures | BRG | |
| t | Tue 05/26/2020 | > Defendant's testimony opens | BRG | |
| t | Fri 06/12/2020 | > Plaintiff pretrial disclosure due | BRG DLS S 2-TTABTR | |
| a | Mon 06/22/2020 2:00pm - 3:00pm | > Hold open for conference call with Dan McCarthy | BRG SVA | |
| t | Tue 06/23/2020 | > Deadline for objections to plaintiff's pretrial disclosures (extended per 09.26.19 order) | BRG DLS S 2-TTABTR | |
| t | Tue 06/23/2020 | > Deadline for depositive motions, summary judgment | BRG DLS S 2-TTABTR | |
| t | Wed 06/24/2020 | > Plaintiff testimony opens | BRG DLS S 2-TTABTR | |
| t | Thu 06/25/2020 | > Defendant's testimony closes; Deadline to submit notice of reliance | BRG | |
| t | Fri 07/24/2020 | > Plaintiff testimony closes; Deadline to submit notice of reliance | BRG DLS S 2-TTABTR | |
| t | Sat 08/01/2020 | > Reminder Defendant - Pretrial disclosure deadline 25 days (prerequisite for testimony depositions) | BRG DLS S 2-TTABTR | |
| t | Fri 08/07/2020 | > Defendant's pretrial disclosure due | BRG DLS S 2-TTABTR | |
| t | Tue 08/25/2020 | > Deadline for objections to <u>press CTRL to add new entry, ENTER to edit</u> | BRG DLS S 2-TTABTR | |
| t | Wed 08/26/2020 | > Defendant's testimony opens | BRG DLS S 2-TTABTR | |
| t | Fri 09/25/2020 | > Defendant's testimony closes; Deadline to submit notice of reliance | BRG DLS S 2-TTABTR | |
| t | Fri 10/09/2020 | > Plaintiff rebuttal disclosure due | BRG DLS S 2-TTABTR | |
| t | Sat 10/24/2020 | > Deadline for objections to plaintiff's rebuttal pretrial disclosures | BRG DLS S 2-TTABTR | |
| t | Sun 10/25/2020 | > Plaintiff rebuttal opens | BRG DLS S 2-TTABTR | |
| t | Mon 11/09/2020 | > Plaintiff rebuttal closes | BRG DLS S 2-TTABTR | |
| t | Fri 01/08/2021 | > Plaintiff trial brief due | BRG DLS S 2-TTABTR | |
| t | Fri 02/05/2021 | > Defendant trial brief due | BRG DLS S 2-TTABTR | |
| t | Fri 02/12/2021 | > Plaintiff rebuttal brief due | BRG DLS S 2-TTABTR | |

EXHIBIT J

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Registration No. 5,665,928
for the Mark **AFAF AVIATION & Design**

Badawi Aviation, LLC,

Petitioner,

Cancellation No: 92072819

vs.

Afaf Aviation, LLC,

Respondent.

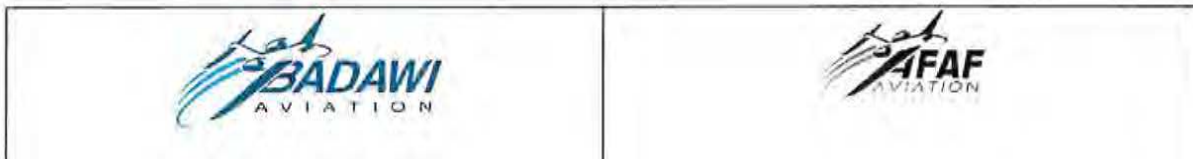
PETITIONER BADAWI AVIATION, LLC'S MOTION FOR SUMMARY JUDGMENT

Badawi Aviation, LLC hereby moves for summary judgment cancelling registration number 5,665,928, registered by Afaf Aviation, LLC, because the evidence incontrovertibly establishes that Badawi used its mark in commerce well before Afaf. Any purported evidence to the contrary created by Afaf for this proceeding does not withstand scrutiny, and as such, cannot establish a genuine issue of material fact.

I. Background

A. The Undisputed Facts Support Cancellation.

Badawi and Afaf adopted and use virtually identical service marks to identify their respective services:




Badawi uses its mark to promote, offer and sell Badawi's aviation-related services, including aircraft rental and leasing services and flight training services. Declaration of Monzer

Badawi, attached as Exhibit “A”. (“Badawi Dec.”) ¶4. Likewise, Afaf uses its mark to promote and sell its own flight training services. See Deposition of Mohcine Afaf taken on July 28, 2020, (“Afaf Depo”) p. 40, attached as Exhibit “B”.

Badawi first used its mark in connection with its services at least as early as August of 2014, and it has used the mark, consistently and continuously, ever since. Badawi Dec. ¶ 3. Over the past six years, consumers of aviation-related services have come to recognize Badawi’s mark and associate it with Badawi. Badawi Dec. ¶ 7. Badawi has expended time, effort and resources to achieve this, prominently displaying its mark in all of its marketing materials, including its website at <http://www.flightreadyaviation.com/>, as well as on various social media platforms. Badawi Dec. ¶ 5. Badawi also features signs showing its mark on both the interior and exterior of its building, which is widely viewed by visitors at the airport where Badawi’s business is based. Badawi Dec. ¶ 6.

In November of 2019, Mr. Badawi, Badawi’s owner, received an email from Mohcine Afaf, accusing Badawi of stealing his company’s logo and threatening to sue on the basis of his trademark registration. Badawi Dec. ¶9. Afaf Depo, Ex. 2., attached as Exhibit “C” (confidential). Mr. Badawi denied he had copied Afaf, but upon seeing that Afaf was using and had registered a mark virtually identical to his, he filed this action seeking to cancel Afaf’s registration on the basis of priority and likelihood of confusion. The following information appears on Afaf’s registration (Afaf Depo, Ex. 10), attached as Exhibit “D”:


| Mark | Appl. Date | Reg. No. | Reg. Date | Int’l. Class | Goods or Services | Date of 1 st use | Date of 1 st use in commerce |
|---|--------------|-----------|------------------|--------------|-----------------------------|-----------------------------|---|
|  | May 26, 2018 | 5,665,928 | January 29, 2019 | 41 | Airplane flight instruction | January 4, 2017 | January 4, 2017 |

When Mr. Afaf filed his application to register the Afaf mark in 2018, he swore under penalty of perjury that Afaf first used the mark for airplane flight instruction, and first used it in commerce for those services, on January 4, 2017. Afaf Depo, Ex. 11, attached as Exhibit “E”. And in his November 2019 demand to Mr. Badawi, he repeated those first use dates, claiming that the Afaf mark was first used in 2017. Badawi Dec. ¶ 9, Afaf Depo, Ex. 2.¹

Discovery in this action is now completed, and all the competent undisputed evidence requires that Afaf’s registration be cancelled. There is no dispute that the two parties’ marks look and feel the same, are used for exactly the same type of services, and are aimed at the same audience. They are, therefore, confusingly similar, and likely to be confused with one another. The only question in this case is priority which party used its mark first? Whichever party can establish it was first must prevail.

Badawi’s evidence as to its first use of its mark in 2014 is undisputed. See, e.g., Badawi Dec. ¶ 3; Afaf Depo, Ex. 2. Unless Afaf’s evidence of prior trademark use is sufficient to create a genuine issue of fact, which it is not, Badawi’s summary judgment motion should be granted and Afaf’s registration cancelled. Until Badawi filed this action stating that it first used its mark in 2014, Afaf had sworn and reaffirmed that its mark had not been used until 2017, well *after* Badawi began using its own mark. Afaf Depo, Ex. 11. After the cancellation petition was filed, for the first time, Afaf asserted an earlier first use date – not only earlier than Mr. Afaf had previously sworn to, but conveniently one year earlier than Badawi, 2013. Afaf Depo, pp. 49-50, Ex. 10-11. Yet Mr. Afaf’s own deposition testimony establishes that in 2013 he was a college student and not

¹ Shortly after he filed the application for the **AFAF AVIATION** mark in August of 2018, Mr. Afaf filed an application in his own name for **AFAF AIR** using the identical airplane design. See Application Serial No. 88/073,247, for the

mark  , for charter flying services. In the application he swore that he first used the mark for those services on April 30, 2018. Mr. Afaf abandoned this application in July of 2019 after failing to respond to an Office Action. Afaf Depo, Exhibits 14-16.

certified to give flying lessons. Afaf Depo, pp. 42-44. He admitted that he did not graduate from college until 2015, and did not receive his first flight certification until 2016. Afaf Depo, pp. 40-41. He had no business of his own that could have provided flight instruction, and no business that served as a predecessor to Afaf's business. At best, he may have helped secure students for someone *else's* flight school. Afaf Depo, pp. 41-42. It is impossible for Mr. Afaf or his company to have offered the services shown on the registration prior to the time Mr. Afaf was qualified to offer those services. It would have been illegal for him to have done so.

B. The Evidence Purporting to Demonstrate Afaf's Prior Use of The Mark Is Not Believable and Should Be Given No Consideration.

In answering the petition, Afaf filed only a general denial. In responding to the requests for production (Afaf Depo, Ex. 9), attached as Exhibit "F", Mr. Afaf, again tardily, submitted an unsworn and rambling "letter" dated January 26, 2020 addressed "To whom it may concern," in which he claimed to describe his creation and use of the Afaf mark. Afaf Depo, Ex. 22, attached as Exhibit "G". He included six letters signed by from friends or acquaintances, all containing identical information, to back up his story that he created the mark in March of 2013 and that he formed his company in 2017 (they all remembered the exact month and year!).

At least two of them admitted that Mr. Afaf himself wrote the letters and simply asked them to sign. Deposition of Seung Suh taken August 10, 2020 ("Suh Depo"), pp. 17-18, attached as Exhibit "H"; and Deposition of Marcris Buchanan taken on August 20, 2020 ("Buchanan Depo"), pp. 18-20, attached as Exhibit "I". Mr. Afaf also submitted photographs purporting to show his "drafts" of the mark, which they were supposedly signed and dated by Mr. Afaf in 2013. Afaf Depo, Ex. 22. Finally, he submitted Facebook evidence purporting to show his use of the mark going back to 2013. Afaf Depo, Ex. 22. *None* of this evidence should be given any credence. Apart from its self-service nature, it is internally inconsistent, unverifiable, unreliable, and

apparently created after the fact by Mr. Afaf himself, or by his friends at his request and with his personal assistance. This is not evidence that can create a genuine issue of material fact sufficient to refute the uncontested facts supporting Badawi’s position.

Every bit of evidence provided by Afaf in this case is unreliable on its face and need not be countenanced. Moreover, almost all of these items of evidence, even if they could be shown to be legitimate, are irrelevant to the issue of trademark priority, since they do not establish, or even address, Afaf’s first trademark use of the mark for the services shown on the registration.

| Afaf’s Alleged Evidence of Prior Use | Reasons It Should Carry No Weight |
|--|--|
| 1. Letter of Mohcine Afaf (includes all following) | Self-serving, not responsive to request, unreliable, internally inconsistent |
| 2. “Drafts” of logo | Refuted by sworn testimony of others |
| 3. Letter of Hopeton Gabbidon | Inconsistent with his deposition testimony |
| 4. Letter of Marcris Buchanan | Virtually identical to other letters |
| 5. Letter of Badreddine Messeleka | Virtually identical to other letters |
| 6. Letter of Bilal Alsayedi | Virtually identical to other letters (unsworn) |
| 7. Letter of William Daza Parra | Virtually identical to other letters |
| 8. Letter of Seung Suh | Virtually identical to other letters |
| 9. Facebook posting to private page | Private; doesn’t show use |
| 10. Pictures of business card | Doesn’t show use |

To test this evidence, Badawi scheduled the deposition of Mr. Afaf, and served third-party subpoenas *duces tecum* on the six others whose letters were included with Afaf’s letter. Of those, one ignored the subpoena altogether, and the others appeared by Zoom or phone. None complied with the *duces tecum* requests.

The witnesses’ deposition testimony was self-contradictory, uncooperative and unreliable. They did not support either Afaf’s timeline as to the first use of the mark for flight training services, or the story of the mark’s creation. What emerges is that Mr. Afaf substantially or wholly prepared all the letters himself, asked his friends and acquaintances to sign them and then attempted to use them to buttress his story.

II. Legal Standard for Summary Judgment

Summary judgment is to be regarded as a salutary method of disposition designed to secure the just, speedy, and inexpensive determination of every action. *Sweats Fashions, Inc. v. Pannill Knitting Co.*, 833 F.2d 1560, 1562 (Fed. Cir. 1987). It is appropriate when the pleadings, depositions, answers to interrogatories, and admissions on file, together with any affidavits show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); Fed. R. Civ. P. 56(c); *Pure Gold, Inc.*, 739 F.2d at 626. A dispute about a material fact is genuine only “if the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986); TBMP §528.01.

A non-movant may not rest on its conclusory pleadings or mere allegations but must present an evidentiary basis for its opposition to the motion. *Pure Gold, Inc.*, 739 F.2d at 627. Thus, one cannot overcome a motion for summary judgment merely by contradicting the movant’s facts.

III. Argument

A. Afaf Failed to Respond Timely to the Requests for Admission with No Excuse, and thus the Requests are Deemed Admitted.

Badawi served Afaf with requests for admissions on February 10, 2020. Afaf Depo, Ex. 8, attached as Exhibit “J”. There were nine requests:

1. Admit that you did not use Respondent’s Mark prior to August 2014.
2. Admit that you did not use Respondent’s Mark prior to 2015.
3. Admit that you did not use Respondent’s Mark prior to 2016.
4. Admit that you did not use Respondent’s Mark prior to 2017.
5. Admit that you did not create the design for Respondent’s Mark.

6. Admit that you were aware of Petitioner's Mark prior to 2017.
7. Admit that you were aware of Petitioner prior to 2017.
8. Admit that Respondent's Mark resembles Petitioner's Mark.
9. Admit that the design in Respondent's Mark is substantially the same as the design in Petitioner's Mark.

Id.

Despite repeated emails asking for a response, Badawi received no response to these requests until April 7, 2020, almost a month late. Afaf Depo, Ex. 17, attached as Exhibit "K". Afaf never sought an extension nor provided any excuse. Because the responses were served after the 30-day deadline, the facts in the requests are deemed to be admitted. Fed. R. Civ. P. 36(a)(3); 37 C.F.R. § 2.120(a)(3); TMEP 407.03(a) "The failure to timely respond to Requests for Admissions results in *automatic admission* of the matters requested. Fed. R. Civ. P. 36(a)(3). 'No motion to establish admissions is needed because Federal Rule of Civil Procedure 36(a) is self-executing'... Once admitted, the matter is conclusively established 'unless the court on motion, permits the admission to be withdrawn or admitted.' Fed. R. Civ. P. 36(b)." (Emphasis is original; citations omitted), *Doctors Medical Center of Modesto, Inc. v. Principal Life Insurance Company.*, 2011 U.S. Dist. LEXIS 26885 *4 (E.D. Cal. 2011) (for the standard; but court allowed responses on these facts).

In *Armida Winery, Inc. v. Cuban, LLC*, Armida claimed priority over PSI's (Cuban's predecessor in interest) registration filing date in 2012. 2018 TTAB LEXIS 295, *29 (TTAB 2018). PSI failed to timely respond to Armida's request for admissions, and thus was deemed to have admitted that its earliest date of use was not on or before 2016. *Id.* at *23. The Board found that neither date was prior to Armida's first use in 2001. *Id.* at *29. Accordingly, the Board found

“no genuine dispute of material fact that Armida has shown priority of use for its mark” *Id.* at 31.

Here, because Afaf responded after the deadline had passed, it is conclusively deemed to have admitted that it did not use the Afaf mark prior to 2014, 2015, 2016 or 2017, that it did not create the design for the mark, that it was aware of Badawi or its mark prior to 2017, and that the two marks resemble one another and the designs are substantially the same.

Afaf never offered any explanation, sought any extension or moved to withdraw the admissions, and as such, they stand as Afaf’s position in this case.² Based on these conclusive admissions alone, which establish a *prima facie* case for the cancellation of Afaf’s registration, Badawi’s motion for summary judgment should be granted.

B. Badawi used its mark prior to any use Afaf could have made of its mark.

“The common law and the Lanham Act require that trademark ownership be accorded to the first bona fide user.” *Hydro-Dynamics, Inc. v. George Putnam & Co.*, 811 F.2d 1470, 1472 (Fed. Cir. 1987). Proprietary rights may arise from a prior use. *Travelers Indem. Co. v. Trov, Inc.*, 2020 TTAB LEXIS 369, *85 (TTAB July 10, 2020).

It is undisputed that Badawi has been continuously using its mark for aircraft sales and leasing and flight training services since at least August of 2014. Badawi Dec. ¶ 3. It is undisputed that Afaf originally swore that its first use of its mark for flight training services was January 4, 2017, the date the company was formed. Because Badawi’s use was more than two years prior to Afaf’s first use, Badawi was the first bona fide user of the mark—giving Badawi proprietary rights to the mark and making Afaf an infringer. Because these facts are undisputed, Badawi’s use has priority over Afaf’s use, filing, and registration of its mark.

² When Afaf finally did file its late response, its answers were deficient and did not meet the requirements of Fed. R. Civ. P. 36(a)(4).

Afaf must overcome at least two hurdles to defeat this motion. First, because the company did not exist before January 4, 2017, it must prove that it obtained its rights from a predecessor in interest. Second, because it swore a first use of 2017 in its application but now wants to claim an earlier use, it must show by *clear and convincing evidence* that its use of the mark, in connection with flight training services, was earlier than what was claimed on its registration. *See Hydro-Dynamics*, 811 F.2d at 1474.

C. There is no evidence to show that Afaf obtained trademark rights from a predecessor in interest.

The earliest date Afaf could have used any mark in commerce is the date it first came into existence, January 4, 2017. *Id.* at 1472. If Afaf wants to claim an earlier use date, it would have to show it acquired rights to the mark from a predecessor in interest. Afaf has not done so.

Normally, a legal entity cannot take actions, such as using a mark in commerce, before it exists. However, “[i]f the first use of the mark was by a predecessor in title or by a related company . . . and the use inures to the benefit of the applicant, the dates of first use . . . may be asserted with a statement that the first use was by the predecessor in title or by the related company” 27 C.F.R. § 2.38(a). Afaf provided no statement that the first use was by a predecessor in title or by a related company as required by § 2.38(a). Therefore, January 4, 2017, is the earliest use in commerce that Afaf can claim. No reasonable fact finder could find otherwise.

D. Afaf’s alleged prior use is not supported by any legitimate evidence.

As discussed above, even if any prior use by a predecessor could have inured to the benefit of Afaf, Afaf did not provide any legitimate evidence that its mark was used in connection with flight training services prior to Badawi’s first use date.

“Where an applicant seeks to prove a date earlier than the date alleged in its application,” the applicant has to prove an earlier date by clear and convincing evidence. *Hydro-Dynamics*, 811

F.2d at 1473. However, “[m]ere invention, creation, or discussion of a trademark does not create priority rights.” *Hydro-Dynamics, Inc.*, 811 F.2d at 1473 (citation and quotation marks omitted).

In this proceeding, Mr. Afaf contends he *invented* and *used* his trademark in 2013. Afaf Depo, p. 50. Although he offered some evidence (although not trustworthy) for the date of creation, he offered no evidence to support a date the trademark registrant, or its legitimate predecessor, actually and legally first *used* the mark as a trademark to promote its flight training services. The documents Afaf produced, Afaf’s answers to interrogatories, Mr. Afaf’s deposition testimony, and the deposition testimony of third parties provide contradictory evidence. This is not clear and convincing, and no reasonable fact finder could find otherwise.

Mr. Afaf produced a photograph which he claimed showed his early sketches of his mark signed by him in March of 2013. Afaf Depo, Ex. 22. It would be odd for someone to sign, date, and photograph sketches used for preliminary designs of a logo. He also provided a screen capture of the logo uploaded to his private Facebook page showing dates of March 12, 2013 and March 15, 2013. *Id.* In the March 15, 2013 private post, a business card was accompanied by the text “incoming business card,” confirming that the card was not in use. *Id.*

Both posts were made to Mr. Afaf’s private Facebook page, inaccessible to anyone other than his approved “friends,” and thus do not exhibit any public solicitation of business. *Id.* pp. 96; 98-99. Marks posted to private social media pages are not marks used “in commerce.”

In the March 12, 2013 post, Mr. Afaf says:

From March 2013 till January of 2017, I was doing Business with Flight School named ‘positive rate gear up’ Marcris buchanan is the owner. That time I was an Aviation Student, I used to recruit Students to Marcris using my Business AFAF AVIATION In return Marcris Awarded me a Free flight hour so that way I could build flight time towards my Career in Aviation. At that time AFAF AVIATION was not incorporated nor been advertised on social Media Due a republic airport where the flight school is based at. They are strictly against advertising on social media

Afaf Depo, Exhibit 22. Several things can be inferred from this text. First, even if Mr. Afaf had created a logo, he did not use it for advertising purposes on social media because it was strictly prohibited by the airport. Second, Mr. Afaf was a college student, not yet an instructor, and any business he did under the mark could not have been for providing flight training services. *Id.* pp. 42-43. He was not qualified to provide flight training services. Third, any “business” Mr. Afaf conducted under the mark was as a recruiter for someone *else’s* business, Positive Rate Gear Up. *Id.* pp. 42-43.

In his deposition, Mr. Afaf testified that he did not teach students to fly while he was a consultant with Positive Rate Gear Up. *Id.* pp. 41, 43, 99-100, 105. Mr. Afaf testified that he personally was not allowed to offer flight instruction services until he was certified as an instructor. *Id.* pp. 43-44. In his letter, Mr. Afaf stated that in “[l]ate 2016, I graduated flight training and [became] a flight [i]nstructor and a few months later and incorporated my dream business” *Id.* Ex. 22; See also Depo of Badreddine Messeleka taken on August 20, 2020, pp. 16–18, attached as Exhibit “L”.

Mr. Afaf’s testimony that he became a flight instructor in 2016 contradicts the records from the FAA. *See* Badawi Dec. ¶12. According to the FAA, Mr. Afaf did not receive his certification as a flight instructor until April 28, 2019. *Id.* The conflicting evidence as to when Mr. Afaf personally began offering flight training services and when he was “allowed” to offer flight training services does not meet the clear and convincing standard.

Even taking Mr. Afaf’s ground instructor certification into account, Mr. Afaf was not offering any kind of flight training services until no earlier than 2016. Mr. Afaf claims that he was a “consultant,” and using his logo in connection with consulting services while he was a student

MOTION TO REOPEN PART 2 of 4

at Positive Rate Gear Up. Afaf Depo, pp. 94-95. Mr. Afaf expressly admits that he could not have offered flight training services during this time period. *Id.*

Q. Can you tell me what this is? A. That's a business card to when I published in 2015—March 16—March 16, 2015. That when I do flight consulting before I become an instructor. I was a student at Farmington college, and I sent them students for Positive Rate—positive gear up. Right there, that's a logo that I was working with them. Q. Is this a business card? A. That's correct. Q. And this is your name. Right? And then it says flight training consultant. A. That's correct. Q. That means you weren't training people how to fly. Correct? A. That's correct, because I was not an instructor back then, so I can recruit people to get a free—free hours, because I was a student back then.

Afaf Depo, pp. 94-95.

All the third-party letters in Exhibit 22 purported to establish some use of the mark prior to August 2014 but are not credible. They all exhibit the same or similar grammar and spelling mistakes. For example, many words were improperly capitalized, some words were improperly spaced by two spaces, incorrect verb tense was used, and in Mr. Buchanan's letter, he did not capitalize his own name. ("I, marcris buchanan airline Pilot and owner of Positive Rate gear Up Flight School, Based in Republic Airport Long Island NY 11735."). The letters from Mr. Suh, Mr. Alsayed, Mr. Messeleka, Mr. Buchanan, and Mr. Gabbidon incorporated the exact Afaf mark in their letters. When asked about the origin of his letter, Mr. Suh testified directly that "[Mr. Afaf] wrote it. I just signed it and then sent it in." Suh Depo, p. 20, attached as Exhibit "M". Likewise, Mr. Buchanan testified that "[t]he letter came from my office. Q. Who wrote it? A. He wrote it, I signed it. Q. Mr. Afaf, you mean? A. Yes" Buchanan Depo, p. 20.

Although these letters appear to offer evidence of the creation and use of the Afaf mark, the evidence is not reliable, and no reasonable fact finder would afford any statements from them any weight. Moreover, the letters do not show when the Afaf mark was first used in connection with flight training services—the only relevant question in this dispute.

At best, Afaf produced evidence only of the *creation* of the Afaf mark. At some later unidentified date, Mr. Afaf or his company used the mark to offer flight training services. There is no clear and convincing evidence showing any use of the mark for these services prior to January 4, 2017.

E. It was illegal for Mr. Afaf to use the mark prior to August 2014.

Notwithstanding that the conflicting evidence does not meet the clear and convincing standard, the earliest that Mr. Afaf could legally have offered flight training services is February 16, 2016. “[T]o qualify for a federal registration, the use of a mark in commerce must be lawful.” *In re PharmaCann LLC*, 123 U.S.P.Q.2D (BNA) 1122, 1123 (TTAB 2017) (quotation marks and citations omitted). “Thus, for a mark to be eligible for federal registration, any goods or services for which the mark is used must not be illegal under federal law.” *Id.* at 1124. Material, per se noncompliance of a statute may warrant cancellation of the registration of a mark. *See General Mills Inc. v. Health Valley Foods*, 24 USPQ2d 1270, 1274 (TTAB 1992).

The FAA requires a person who provides flight training to have either a flight instructor certificate or ground instructor certificate. “Except as provided in paragraph (d)(3) of this section, no person other than the holder of a flight instructor certificate issued under this part with the appropriate rating on that certificate may—[g]ive training required to qualify a person for solo flight and solo cross-country flight.” 14 C.F.R. § 61.3(d)(2). “A flight instructor certificate issued under this part is not necessary . . . if the training is given by the holder of a ground instructor certificate in accordance with the privileges of the certificate” *Id.* (d)(3).

It would have been a violation of FAA regulations for Mr. Afaf to provide flight training services unless he held a flight instructor certificate or a ground instructor certificate. Mr. Afaf did not acquire his ground instructor certificate until February 16, 2016. Badawi Dec ¶12. Mr. Afaf

did not acquire his flight instructor certificate until April 28, 2019. *Id.* Therefore, because it would have been illegal for Mr. Afaf to provide flight training until he was certified to do so, and a mark is not eligible for registration unless its use is lawful, the earliest date Mr. Afaf could possibly claim lawful use of the mark in connection with flight training services is February 16, 2016.

Afaf failed to produce sufficient evidence for a reasonable fact finder to conclude by a clear and convincing standard that Afaf used the mark in connection with flight training services prior to the date claimed on its registration, January 4, 2017. Additionally, Mr. Afaf has failed to produce evidence for a reasonable fact finder to conclude by a clear and convincing standard that Mr. Afaf personally used the mark prior to August 2014. At best, the earliest Mr. Afaf can personally claim lawful use in connection with flight training services is February 16, 2016, the date he acquired his ground instructor certificate. Because Badawi's first use in August 2014 was prior to both January 4, 2017, and February 16, 2016, Badawi's continuous use pre-dates Afaf's use. Afaf's registration should therefore be cancelled.

F. Afaf's mark creates a likelihood of confusion as to the source Badawi's services.

The Afaf mark as shown in its registration is confusingly and deceptively similar to the Badawi mark in appearance, meaning, and commercial impression. Even though the Afaf mark is registered in black and white, it is shown throughout its website in colors very similar to those in the Badawi mark. Afaf's aviation-related services are closely related to Badawi's aviation services. Consumers are likely to believe that Afaf and its services are somehow sponsored by, affiliated with and/or related to Badawi's and its services. Afaf's channels of trade and types of purchasers are identical to or very similar to Badawi's. As a result of the above, persons familiar with the Badawi mark and services will likely confuse Afaf's services with the services provide by Badawi. Any defect, objection, or fault found with Afaf's services offered under its registration may reflect

upon and expose Badawi to liability, and injure the reputation Badawi has established for its services.³

Likelihood of confusion between two marks is determined on a case-by-case basis by application of the DuPont factors. *In re E.J. DuPont de Nemours & Co.* 476 F.2d 1357 (CCPA 1973). Although there is no mechanical test, in any likelihood of confusion analysis, two key considerations are the similarity of the marks and the similarity of the goods or services. *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098 (CCPA 1976). In determining confusion between marks, the “marks must be considered in their entireties and must be considered in connection with the particular goods or services for which they are used.” *In re National Data Corp.*, 753 F.2d 1056, 1058 (Fed. Cir. 1985).

Marks that have similar logos weigh towards a likelihood of confusion. In *Hilson Research Inc. v. Society for Human Resource Mgmt*, the Board found likelihood of confusion because the two logos used substantially similar stylized letters “H” and “R” and the services offered by both companies were rendered to the same classes of purchasers. 27 U.S.P.Q.2D (BNA) 1423, 1440 (TTAB 1993). In *Chanel, Inc. v. Mauriello*, the Board found two logos confusingly similar, leading to a higher likelihood of confusion. 2010 TTAB LEXIS 499, *25 (TTAB 2010).

The Badawi mark and the Afaf mark are nearly identical. The stylized airplane and three wind swoops are identical. Both marks use the downward wing to start the first letter of the name of their company. Both marks use the word “AVIATION” to the right of the downward wing.

³ This is not a consideration to be taken lightly, as flight training is a dangerous business. In fact, Positive Rate Gear Up, Mr. Buchanan’s flight school, experienced a tragedy when one of its students fatally crashed the training plane he was flying. The school closed as a result.

Both companies offer the same services and operate in similar trade channels, seeking similar customers. Both companies operate out of general aviation airports and target individuals who want to learn to fly small airplanes.

Afaf does not dispute that the two marks are confusingly similar. This dispute began because Mr. Afaf wrote to Badawi accusing the company of copying his logo. He reiterated his belief in his deposition:

Q. And number nine in the request for admission asks you to admit that the design in your mark is substantially the same as the design in the Badawi mark, and you denied that; is that accurate? A. Correct. Q. And why is that? You don't think the marks are similar or substantially the same? A. Well, it's obvious that -- no, it's obvious[ly] similar because he copied the same thing and didn't make a change.

Afaf Depo, p. 52.

Because Mr. Afaf himself believes the marks are similar or substantially the same, and the marks are almost identical, and are used for the same services, there is a likelihood of confusion between the two marks.

IV. Conclusion

Badawi's use of its mark in August 2014 predates Afaf's use of its mark for flight training services. Afaf's earliest possible use of the mark in connection with flight training services was January 4, 2017, according to its own sworn statement. Afaf's admission it did not use the mark prior to 2017 conclusively establishes that it did not use the mark prior to 2017.

Alternatively, no reasonable fact finder could find sufficient evidence in this record to support Afaf's claimed priority use of the mark in connection with flight training services. The facts presented through sworn deposition testimony are insufficient for a reasonable trier of fact to find that Afaf used the mark for flight training services prior to August 2014, let alone by clear and convincing evidence.

The marks are confusingly similar; neither party disputes this. The use and registration of the Afaf mark would therefore likely cause confusion in the marketplace. The registration should be cancelled under 15 U.S.C. §§ 1064, 1052(d).

For these reasons, Badawi requests an entry of summary judgment in its favor cancelling the registration of **AFAF AVIATION & Design**.

Dated: October 21, 2020

Respectfully submitted,

/Ava K. Doppelt/

Ava K. Doppelt, Esq.
Allen, Dyer, Doppelt
& Gilchrist, P.A.
255 South Orange Avenue
Orlando, Florida 32801
Telephone: (407) 841-2330
Facsimile: (407) 841-2343
Email: adoppelt@allendyer.com

*Attorney for Petitioner
Badawi Aviation, LLC*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 21, 2020, a copy of the foregoing was served via e-mail transmission on the following:

Todd Wengrovsky, Esq. - TW4823
Law Offices of Todd Wengrovsky, PLLC.
285 Southfield Road, Box 585
Calverton, NY 11933

*Attorney for Registrant
Afaf Aviation, LLC*

/Michel Rodriguez/
Michel Rodriguez

Exhibit A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Matter of Trademark Registration No. 5,665,928
For the Mark **AFAF AVIATION & Design**

Serial No.: 97937718

Filing Date: May 26, 2018

For: **AFAF AVIATION & Design**

Class: 41

Commissioner for Trademarks
Box RESPONSE NO FEE
P.O. Box 1451
Alexandria, VA 22313-1451

Sir:

**DECLARATION OF MONZER BADAWI IN SUPPORT OF PETITIONER'S
MOTION FOR SUMMARY JUDGMENT**

The undersigned, being duly sworn, deposes and says:

1. I am over the age of 18 and make this declaration based on my personal knowledge of the facts stated below.

2. I am the owner and president of the Petitioner Badawi Aviation, LLC ("Badawi") in this cancellation action.

3. Since as early as August of 2014, my company has used the mark



(“our mark”) for aircraft rental and leasing services and flight training services. As shown, our mark includes the words BADAWI AVIATION stacked vertically, written in all capital letters, with BADAWI in bold italics and AVIATION in lighter type, along with a distinctive design of a stylized jet airplane flying at a slight tilt over the first two letters of “Badawi”

so that the right wing of the plane forms the elongated stem of the B in "Badawi," and three blue exhaust plumes curving out around the B.

4. My business promotes and offers aircraft rental and leasing, flight instruction, pilot training, and sightseeing tour services. We operate out of a general aviation airport in Orlando, Florida.

5. Our marketing efforts, which include our website at <http://www.flightreadyaviation.com/>, as well as social media, target individuals who want to learn to fly small airplanes and become certified as pilots.

6. All of our company's marketing materials prominently display our mark, and we also have signs showing our mark inside and outside our building.

7. We have used our mark continuously and consistently at least since August of 2014. We have expended significant resources promoting our services using the mark. Customers recognize our mark and connect it with our services, as distinguished from those of our competitors.

8. We posted our mark on our company's Facebook page at least as early as October 27, 2014. See Exhibit I attached.

9. On November 5, 2019, I received an email addressed to info@flightreadyaviation.com from Mr. Mohcine Afaf, claiming that I had stolen his logo and threatening to file a lawsuit. Mr. Afaf asserted that his mark had "been used since 2017."

10. Our mark and the mark used by Mr. Afaf's company, Afaf Aviation, LLC ("Afaf"), are almost identical, other than the name incorporated into the design. The jet airplane tilted slightly upward, the location of the plane vis a vis the words, the three jetstream swirls, and the use of the right wing to form the first letter of the name - - all are exactly the same in both marks.

11. I reviewed the corporate records of the State of New York, and read that Afaf was formed on January 4, 2017. See Exhibit 2 attached.

12. I also reviewed the records of the Federal Aviation Administration ("FAA"), and noted that Mohcine Afaf became certified as a flight instructor on April 28, 2019, and certified as a ground instructor on February 16, 2016. Before that time, to the best of my knowledge, he was not certified to teach flying and could not legally do so.

13. I had never heard of Afaf prior to receiving Mr. Afaf's email in November of 2019 nor had I ever previously seen his logo. I have never been to any location where he says his business has been located.

14. We did not copy Afaf's mark in creating our mark.

15. I declare that the facts set forth in this declaration are true, and that all statements made on knowledge are true, and all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Date: 21 OCT 2020

By: 
MONZER BADAWI

EXHIBIT 1

facebook

Badawi Aviation, LLC

Home

Reviews

Photos

Badawi Aviation, LLC

Like This Page · October 27, 2014

Brandon Bojadich, Andrew Belton and 2 others like this.

1 Share 1 Comment

Maria Badawi Alf mabrouk ya Menzer! Proud of you!

5y

EXHIBIT 2

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through October 20, 2020.

Selected Entity Name: AFAF AVIATION LLC

Selected Entity Status Information

Current Entity Name: AFAF AVIATION LLC

DOS ID #: 5062013

Initial DOS Filing Date: JANUARY 04, 2017

County: SUFFOLK

Jurisdiction: NEW YORK

Entity Type: DOMESTIC LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

AFAF AVIATION
3327 149TH STREET
FLUSHING, NEW YORK, 11354

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate](#).

***Stock Information**

| # of Shares | Type of Stock | S Value per Share |
|-------------|---------------|-------------------|
|-------------|---------------|-------------------|

No Information Available

*Stock information is applicable to domestic business corporations.

Name History

| Filing Date | Name Type | Entity Name |
|--------------|-----------|-------------------|
| JAN 04, 2017 | Actual | AFAF AVIATION LLC |

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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Exhibit B

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Cancellation No: 92072819

In the Matter of Trademark Registration No. 5,665,928.
For the Mark AFAP AVIATION & DESIGN

Badawi Aviation, LLC,

Petitioner,

-vs-

Afaf Aviation, LLC,

Respondent.

* * * * *

DEPOSITION OF: MOHCINE AFAP
DATE TAKEN: July 28, 2020
TIME: 10:00 A.M.
PLACE: BY VIDEOCONFERENCE
REPORTED BY: MICHELLE PULIDO STUBBEN, FPR,
COURT REPORTER, NOTARY PUBLIC

* * * * *

Page 2

1 A P P E A R A N C E S

2 AVA K. DOPPELT, ESQUIRE

3 Allen, Dyer, Doppelt & Gilchrist, P.A.

4 255 South Orange Avenue, Suite 1401

5 Orlando, Florida 32801

6 (Adoppelt@allender.com)

7 A P P E A R I N G O N B E H A L F O F T H E P E T I T I O N E R

8 TODD WENGROVSKY, ESQUIRE

9 Law Offices of Todd Wengrovsky, PLLC.

10 285 Southfield Road, Box 585

11 Calverton, NY 11933

12

13 A P P E A R I N G O N B E H A L F O F T H E R E S P O N D E N T

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10 - - - - -

11 S T I P U L A T I O N S

12 It is hereby stipulated by and between counsel for the

13 respective parties that the reading and signing of the

14 deposition be waived.

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PROCEEDINGS

1 THE REPORTER: The attorneys participating in
2 this deposition acknowledge that I, the court
3 reporter, am not present with the witness and that
4 I will be reporting the proceedings and
5 administering the oath remotely.
6 The parties and their counsel consent to this
7 arrangement and waive any objections to this manner
8 of reporting. Please indicate your agreement by
9 stating your name and your agreement
10 on the record.
11 THE WITNESS: Mohcine Afaf. I agree.
12 MS. DOPPELT: Do the rest of us have to do
13 that too?
14 THE REPORTER: Yes.
15 MS. DOPPELT: Okay. I'm Ava Doppelt and I
16 agree.
17 MR. WENGROVSKY: Todd Wengrovsky and I agree
18 as well.
19 WHEREUPON:
20 MOHCINE AF AF,
21 was called as a witness, and having first been duly
22 sworn, testified as follows:
23 THE WITNESS: That's what you say in the holy
24 trinity, so help me God.

1 THE REPORTER: Okay. You may begin.
2 MS. DOPPELT: Okay. We are ready to go?
3 THE REPORTER: Yes.
4 MS. DOPPELT: Thank you.
5 DIRECT EXAMINATION
6 BY MS. DOPPELT:
7 Q. Good morning, Mr. Afaf. The first thing I'm
8 going to ask you so that we say we did this right is --
9 can you just pronounce your last name so I make sure I'm
10 saying it correctly.
11 A. Sure. It's Afaf, Afaf. However you like it,
12 it's -- it's fine. But usually it's Afaf.
13 Q. Afaf?
14 A. Correct.
15 Q. Okay. Thank you.
16 Hello, Mr. Afaf. I'm Ava Doppelt, and I'm the
17 lawyer for the petitioner, Badawi Aviation LLC. And as
18 you can see from the Zoom screen, Mr. Badawi is also
19 present. The name Trevor Ward, whom you may not know,
20 is a law student who's working in our office who's
21 watching this deposition. Ms. Stubben is the
22 court reporter, and your lawyer is here as well; so
23 that's everybody.
24 I'm going to confess to you right up front,
25 this is my first time doing a deposition on Zoom, so I

1 hope it all works. And I wish us all luck.
2 Mr. Afaf, have you had your deposition taken
3 before?
4 A. No, this is my first time ever. First time
5 for everything.
6 Q. Okay. Okay.
7 Well, to that point, let me just lay out some
8 simple instructions about how this works. So I'm going
9 to ask you questions. Please answer as best you can,
10 but don't guess.
11 If you don't know the answer, just say you
12 don't know. If you can't remember, just say you can't
13 remember.
14 Is your lawyer in the same room as you?
15 A. No.
16 Q. Okay. So you can't ask your lawyer before you
17 answer. You just have to answer the question if you
18 can; or if you can't, say the reason why you can't.
19 If your lawyer objects to a question that I
20 ask, listen to the objection and see what we do. Either
21 I'll have to change my question, because it wasn't
22 comprehensible, or he's just raising an objection. But
23 we can move forward anyway. Of course there's no judge
24 here, so nobody's ruling on objections.
25 If you have to still answer anyway, I'll say

1 that. And unless your lawyer objects to that, you will
2 still have to answer.
3 So if you don't understand what I'm asking
4 you -- you just don't understand the question, you can
5 just say you don't understand or ask me to rephrase it
6 in some way that makes it more comprehensible. Just
7 don't -- just don't try to guess what I'm asking you.
8 Obviously, the court reporter is here because
9 our questions and answers are being taken down verbatim,
10 and she's not -- she's in her own -- we're all in
11 separate places, as far as I can tell. So she's
12 listening on Zoom just like the rest of us.
13 The one thing I will say is if I ask you a
14 question that requires you to tell me what your lawyer
15 told you, then don't answer that. Just tell me that
16 it -- you can't answer that, okay, because that would be
17 an attorney-client privilege. Your lawyer might object.
18 But if he doesn't object and if you don't want to tell
19 me some advice your lawyer gave me, just tell me that
20 you can't.
21 Have you been involved in a Zoom meeting
22 before?
23 A. Yes.
24 Q. Okay.
25 A. Not meeting but training.

1 Q. Pardon me?
 2 A. Not meeting but training.
 3 Q. Okay. So we're all kind of Zoomed out, I
 4 think.
 5 A. Yes.
 6 Q. Okay. One of the ways this works is that I'm
 7 going to show you exhibits. And if we were doing this
 8 and I was sitting across from you, I would hand you a
 9 document and you would look at it, hold it in your hand,
 10 and the court reporter would mark it. This is one of
 11 the ways that this process is going to be different.
 12 There's a series of exhibits that I've already
 13 marked with numbers, and the court reporter has them and
 14 your lawyer also has them. And I'm going to show them
 15 to you on the screen, I hope. And so we can talk about
 16 them that way.
 17 And I'm going to just ask you questions about
 18 them, and you can look at them on the screen. If you
 19 are having trouble or if you can't see them on the
 20 screen, please let me know.
 21 You're under oath, of course. You just took
 22 the oath, and so you understand what that means, that
 23 you have to tell the truth.
 24 Is there anybody in the room with you?
 25 A. No, just me.

1 Q. Okay. Where are you?
 2 A. The airport.
 3 Q. You're at the airport. Okay.
 4 A. My office.
 5 Q. Okay. Is there anything that would prevent
 6 you from understanding questions and answering
 7 truthfully today? Are you on any kind of medication?
 8 A. No.
 9 Q. Okay. And I'm going to assume if you're here,
 10 you're not sick?
 11 A. No, I'm not.
 12 Q. Okay. Okay.
 13 Can you please give your entire name and spell
 14 it out. I know you did it for the court reporter, but
 15 that's how we start.
 16 A. Sure. It's Mohcine Afaf, M-O-H-C-I-N-E. Last
 17 name is A-F-A-F.
 18 Q. Okay. Thank you.
 19 Have you ever been known by any other names?
 20 A. No.
 21 Q. Do you have a middle name?
 22 A. No.
 23 Q. Can you give your -- how old are you?
 24 A. Thirty-one.
 25 Q. Thirty-one?

1 A. Correct.
 2 Q. And what's your date of birth?
 3 A. October 15, 1988.
 4 Q. And where were you born?
 5 A. Morocco.
 6 Q. How old were you when you came to the
 7 United States?
 8 A. I don't recall.
 9 Q. Were you a small child or teenager?
 10 A. Back and forth. I don't have specific dates
 11 exactly when I -- when I stayed; so...
 12 Q. Is English your first language?
 13 A. No.
 14 Q. What is?
 15 A. Honestly, I don't have a first language,
 16 because in -- when I was a child in Morocco, it was a
 17 dialect; so it's mixed with Arabic, French, English,
 18 Spanish, and Amazigh, which is Berber, the local
 19 language. So very much whatever we come up with is the
 20 language. So it not really a language, it's a dialect,
 21 so it's not a first language.
 22 Q. Are you fluent in English?
 23 A. Yes. English, French, Arabic, all of them.
 24 Q. Okay. What is your address?
 25 A. 63 West Kingsland Road, Norwood, PA 19074.

1 Q. Do you commute from Pennsylvania to the
 2 airport every day?
 3 A. Not every day.
 4 Q. What did you do to prepare for this
 5 deposition?
 6 A. To prepare? There's nothing to prepare for,
 7 I -- I run everything myself, so just coming to answer
 8 your questions. Very much -- what can I say?
 9 Prepared -- I'm always prepared for -- because
 10 I have done the logo and the work for it, so I know what
 11 I'm saying. So I don't do my homework, because I --
 12 I've done homework.
 13 Q. Did you meet with your lawyer?
 14 A. No.
 15 Q. Did you speak to your lawyer about the
 16 deposition?
 17 A. Yes.
 18 Q. Okay. Did you review any documents?
 19 A. Yes.
 20 Q. What documents?
 21 A. The one I prepared.
 22 Q. Okay. Did you speak with anybody else about
 23 your deposition?
 24 A. No.
 25 Q. Are you on social media?

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1 A. Yes.
2 Q. Which ones?
3 A. Almost all of them. The media ones.
4 Q. You've got to bear in mind that I am old. So
5 when you say all of them, there's probably -- most of
6 them I don't even know.
7 A. It is --
8 Q. So can you just list them for me.
9 A. Sure. Two on Facebook, Instagram, TikTok.
10 That's all I can think of right now.
11 Q. Are you on your own behalf or on behalf of the
12 company?
13 A. I'm the owner; so...
14 Q. Okay. Do you know what this case is about?
15 A. Yes.
16 Q. Did you copy Badawi's trademark?
17 A. He copied mine.
18 Q. Okay. If I refer to Exhibit 1, are you
19 looking at it?
20 A. No, I'm not.
21 Q. Okay. So how do I do this?
22 You don't see an exhibit on your screen?
23 A. No. But if you give me a second, I can pull
24 it up.
25 Q. Does that mean you hit share screen?

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1 A. Take it from the iPad and be able to
2 screenshot with you. I don't have. My computer is old
3 one, so I can't share anything with you.
4 Q. All right. So you see Exhibit 1 in front of
5 you, Mr. Afaf?
6 A. Yes.
7 Q. Okay. Thanks. Okay.
8 Do you recognize this document?
9 A. I think so. I -- I can't read it, though. So
10 I can see it, but I can't read it; so...
11 Q. Okay. So this is the amended notice of
12 deposition, so this is what brought you here today. And
13 it's directed to Afaf Aviation LLC.
14 And are you here as a representative of
15 Afaf Aviation LLC?
16 A. Yes, ma'am.
17 Q. Okay.
18 (Petitioner's Exhibit 1 was marked for
19 identification.)
20 BY MS. DOPPELT:
21 Q. Okay. Okay. Let me see if this works.
22 Did you look at Exhibit A in the amended
23 notice of deposition?
24 A. Okay. I see it.
25

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1 Q. Okay. Mr. Afaf, you're here -- this is called
2 a 30(b)(6) deposition, and that means that you're
3 testifying on behalf of your company, that the
4 deposition is directed to your company Afaf Aviation
5 LLC.
6 That is your company. Correct?
7 A. Correct.
8 Q. Are you the owner of that company?
9 A. Correct.
10 Q. And are you the -- are you the sole employee
11 of that company?
12 A. No. I have more -- I have -- I have people
13 working for me.
14 Q. How many people work for you?
15 A. It varies. Because of Corona, now we --
16 depends. But we are big. We sold -- we stopped a few
17 months. Now we're just regrouping, so I don't know at
18 this moment.
19 Q. Is it fewer than ten; or...
20 A. Between five and ten.
21 Q. Okay. What is your title at the company?
22 A. President.
23 Q. Okay. So on that list that you're looking at,
24 which has one through ten -- this is a list of the
25 subject areas that we intend to cover today. And what

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1 I'm looking for is the person at your company who knows
2 the most about all ten of these subject areas.
3 So I'll ask you up front, so we don't have to
4 go through each one of them, if there's anybody in your
5 company who knows more about these subjects than you do?
6 A. No.
7 Q. Okay. Is there any other officer of your
8 company besides you?
9 A. No, ma'am.
10 Q. Okay. Mr. Afaf -- okay. I'm going to show
11 you now -- or I think I am showing you Exhibit 2?
12 (Petitioner's Exhibit 2 was marked for
13 identification.)
14 MS. DOPPELT: Madam Court Reporter, you are
15 marking these as we go?
16 THE REPORTER: Yes.
17 BY MS. DOPPELT:
18 Q. Do you recognize Exhibit 2?
19 A. I'm seeing the e-mail copy. Right?
20 Q. Okay. It appears to be an e-mail.
21 Is this an e-mail you've seen before?
22 A. Yes. An e-mail after the conversation we had
23 over the phone.
24 Q. I'm sorry?
25 A. The e-mail after the conversation we had over

1 the phone. And the conversation over the phone was:
 2 Hello, how are you? You know, you took my -- my -- my
 3 logo, and that's nice to -- not to -- it's not nice to
 4 do that without even having consent or anything like
 5 that.
 6 The response from Badawi was, What are you
 7 going to do about it? I have ten lawyers.
 8 That's the exact conversation. That's when I
 9 found out that my logo's being used in Florida.
 10 Q. Okay. This e-mail is dated November 5, 2019,
 11 at 11:59 p.m.
 12 Did you write this e-mail?
 13 A. Yes, I did.
 14 Q. And did you send it to the e-mail address
 15 shown on here: info@flightreadyaviation.com?
 16 A. That's correct. That's after I called them
 17 and talked to them over the phone and they threatened
 18 me.
 19 Q. When did you -- when did you make that phone
 20 call?
 21 A. 11 -- it's about -- around 9:30 or so, so like
 22 an hour or so before that.
 23 Q. And who did you call?
 24 A. I don't recall the person, but whoever picked
 25 up the phone. I think it was -- it was -- actually

1 right there: Monzer Badawi.
 2 Q. And how did you come to call him?
 3 A. I looked at the website, and I found the
 4 phone number. So I called to -- and asked, Are you --
 5 did you present the case? The manager said, Yes, I'm --
 6 I'm the owner.
 7 So I had a conversation with him about the
 8 logo -- using my logo, and that's not nice to do without
 9 even having consent or -- you know, taking someone's
 10 logo's not -- it's not a good idea. And the answer was,
 11 What are you going to do about it? and I have ten
 12 lawyers.
 13 Q. What caused you to make that phone call?
 14 A. Well, I found out that he's using my -- my
 15 logo, so of course it hurts to see somebody using a logo
 16 that you worked hard on it and paid money for it till
 17 it's just right, and spent all your time on it. That
 18 logo is my legacy. It's something that I worked on when
 19 I was in college.
 20 And then see somebody using it without even
 21 having any consent or any -- none of that kind of thing
 22 and using it just like that -- and when I called, the
 23 first response was, What are you going to do about it?
 24 It's like a challenge or a threat.
 25

1 Q. Where did you see the -- see Mr. Badawi's use
 2 of your logo, as you say?
 3 A. A friend of mine -- as you know, I'm an
 4 airline pilot. We have friends all over the States,
 5 because we all work at air -- different airlines. One
 6 of them was there to rent a plane or went to Orlando
 7 Airport somewhere and saw my logo out there.
 8 So he actually called me. And he said, Your
 9 logo's been used. And he sent me screenshots.
 10 So -- and -- and he gave me their -- their
 11 name and everything, so I called to inquire and see
 12 what's going on. And that's what I got from them, that
 13 response.
 14 Q. Who was your friend who called you?
 15 A. I'm not sure if we can disclose the name --
 16 his name yet. I have to ask for his consent.
 17 Q. So you're refusing to tell me who it was?
 18 A. Well, I would have to ask him first if he's
 19 okay with giving his name.
 20 Q. Again, you are under oath, so --
 21 A. I'm -- I'm not lying. I --
 22 Q. -- if you're refusing, you can tell me you're
 23 not going to tell me?
 24 A. Correct. Right. Correct. Because -- but the
 25 truth -- I want to say the truth, so we have to ask for

1 his consent to give me his name. I know who he is. I
 2 know his first name and his last name, but I have to ask
 3 for his consent to discover his name, which is complete
 4 truth.
 5 Q. Okay. When you called and spoke with
 6 Mr. Badawi, how did you know it was Mr. Badawi?
 7 A. He said he was Badawi himself.
 8 Q. Okay. And before you made that phone call,
 9 did you do any background research on his company?
 10 A. I looked online.
 11 Q. What did you look at?
 12 A. I looked at all his stuff he has: Facebook,
 13 Instagram, all that stuff. What I found is ready
 14 aviation as -- flight -- FlightReady Aviation as the
 15 main company, and the second -- second name -- secondary
 16 name is Badawi Aviation. That's not been used.
 17 They did not have a logo, and the first time
 18 they used the logo was, I think, in 2018. That's the
 19 first time they used it. They were using FlightReady
 20 Aviation as a -- as a flight school, but Badawi is a
 21 second name.
 22 It's a second name, but it has -- does not
 23 have a logo or anything, until 2018. Then when they saw
 24 my logo, they copied it and they posted it on the social
 25 media.

1 Q. Now, how do you know all that?
 2 A. Because I'm a federal agent. I know how to
 3 command an investigation.
 4 Q. I'm sorry. You need to speak clearly here.
 5 A. I know how to do my investigation.
 6 Q. I'm sorry.
 7 How do you know that -- you said that the
 8 Badawi company didn't use this logo until 2018. You
 9 were doing this in 2019.
 10 How did you know when they started using it?
 11 A. Because I did look online, and all my research
 12 saying -- saying that the first time they were using the
 13 logo -- yeah, they've been in business since 2014, but
 14 all the business is FlightReady Aviation. That's what
 15 it is.
 16 And a secondary name is there, but it's not
 17 being used. It's there as -- like when you open your
 18 business, but did not -- they didn't -- did not have a
 19 logo for it until 2018. Then they started adding it.
 20 Q. So you spoke to somebody who identified
 21 himself as Mr. Badawi, the owner of the company.
 22 Correct?
 23 A. Yes, ma'am.
 24 Q. And then you sent this e-mail.
 25 Why did you send this e-mail?

1 A. I sent the e-mail because I wa -- he get me
 2 angry by talking to me, like, What are you going to do
 3 about it? It's another way of saying I've got your -- I
 4 have your -- I used your logo, what are you going to do
 5 about it? What -- I'm -- and I have ten lawyers.
 6 When I told him, I might sue you for what
 7 you've done, he says, What are you going to do about it?
 8 I have two -- ten lawyers. Go ahead.
 9 Q. So you threatened to sue him?
 10 A. No. He threatened me: What are you going to
 11 do about it? It's a threat itself. Like, what are you
 12 going to do about it? It's a challenge.
 13 Q. Okay. And you wrote this letter and sent it
 14 to him.
 15 And then what happened?
 16 A. And that's it. I was busy with working until
 17 I get a letter from his lawyer saying that they -- they
 18 are trying to cancel my trademark. Then I showed it to
 19 my lawyer.
 20 Q. But you sent -- before you sent this e-mail
 21 that we're still talking about in Exhibit 2, did you
 22 talk to a lawyer?
 23 A. No.
 24 Q. Did anybody give you advice about this e-mail?
 25 A. No. That -- that e-mail was coming out of

1 anger with somebody challenging me. That time I had no
 2 lawyer. I was just angry as an individual that
 3 somebody, you know, threatened me right there, so I felt
 4 angry at that moment.
 5 Q. Okay. All right. When you say you next heard
 6 from a lawyer is -- I'm going to show you Exhibit 3.
 7 Is this a letter you received after you got
 8 that letter?
 9 (Petitioner's Exhibit 3 was marked for
 10 identification.)
 11 THE WITNESS: Can you -- sorry -- can you
 12 scroll up a little bit, so I can see. More up.
 13 That's correct.
 14 BY MS. DOPPELT:
 15 Q. So after you sent the e-mail that we showed
 16 you in Exhibit 2, you received this letter from
 17 David Abrams, that we're looking at that's Exhibit 3.
 18 Correct?
 19 A. That's correct, ma'am.
 20 Q. Did this come to you by e-mail?
 21 A. Yes, by e-mail. Correct.
 22 Q. And when you got this letter, did you read it?
 23 A. Obviously.
 24 Q. And what did you then do? Anything?
 25 A. I contacted my lawyer.

1 Q. And the lawyer you contacted was
 2 Mr. Wengrovsky?
 3 A. That's correct.
 4 Q. Was he your lawyer already or is he new?
 5 A. That question you have to ask him. I don't
 6 know.
 7 MR. WENGROVSKY: I'll object. I don't see --
 8 BY MS. DOPPELT:
 9 Q. No.
 10 Have you dealt with him before?
 11 MR. WENGROVSKY: Objection. I don't see the
 12 relevance, and we're not disclosing communications.
 13 BY MS. DOPPELT:
 14 Q. I'm not asking for communications. I'm just
 15 asking if he was already your lawyer.
 16 MR. WENGROVSKY: And what is the relevance?
 17 BY MS. DOPPELT:
 18 Q. You can answer, Mr. Afaf.
 19 MR. WENGROVSKY: Note the objection for the
 20 record, please.
 21 Go ahead.
 22 BY MS. DOPPELT:
 23 Q. I'm sorry.
 24 Did you answer?
 25 A. I don't have an answer.

1 Q. Why not?
 2 A. Because I don't know. I don't recall.
 3 Q. You don't know if he was already your lawyer?
 4 A. I don't recall.
 5 Q. Okay. Did you read the letter you received
 6 from Mr. Abrams?
 7 A. Yes, ma'am.
 8 Q. And when Mr. Abrams said that Badawi Aviation
 9 had been using a similar logo since 2014, what did you
 10 do to determine if that was correct?
 11 A. That's -- that's not -- that's not correct.
 12 They've been in business since 2014. That's in their
 13 company as FlightReady Aviation as a secondary name that
 14 had been filed -- the way the -- the -- the -- that
 15 other company is there, but they -- they were not in
 16 business, the one -- as one business, which is
 17 FlightReady.
 18 And then the secondary name was just attached
 19 to it right there, as like you damaged your -- your name
 20 and business, you can use the second one because the
 21 same company for a legality. But they were never used
 22 there. It was not there.
 23 The logo was not there. Yes, you -- you might
 24 find it in 2000 whatever, but it's not -- he never used
 25 it.

1 Q. When Mr. Abrams said in his letter that
 2 Badawi Aviation had been using a similar logo since
 3 2014, did you think he was lying?
 4 A. I'm not accusing him about lying, but I did my
 5 research and that's not what I come out with.
 6 Q. And what research did you do exactly?
 7 A. There's plenty of them. I mean, there's --
 8 there's plenty research I do. There's -- there's
 9 Internet, there's computers, there's a lot of stuff you
 10 can look for to find out.
 11 Q. And what did you do?
 12 A. All of them.
 13 Q. Well, what did you look up?
 14 A. I mean, I don't recall exactly, but different
 15 resources to find out.
 16 Q. And when you received this letter, did you --
 17 did you respond to it?
 18 A. My lawyer did. I -- I handed everything to my
 19 lawyer.
 20 Q. What did your lawyer respond?
 21 A. I mean, you would have to ask him. I mean,
 22 I -- I gave him the case to take care of because I'm
 23 busy doing other stuff, so my lawyer represents me.
 24 (Petitioner's Exhibit 4 was marked for
 25 identification.)

1 BY MS. DOPPELT:
 2 Q. Okay. Okay.
 3 Mr. Afaf, I'm showing you now what's labeled
 4 as Petition to Cancel. And let me know if I need to
 5 keep scrolling.
 6 Have you ever seen -- this has been marked as
 7 Exhibit 4 -- have you ever seen this document before?
 8 A. I believe so.
 9 Q. Did you read it?
 10 A. Yes.
 11 Q. And when you received it, what did you do?
 12 And I'm not asking you to tell me what you said to a
 13 lawyer or what your lawyer said to you.
 14 But what did you do?
 15 A. Can you rephrase the question again.
 16 Q. What did you do when you got this -- when you
 17 received this document?
 18 A. I gave it to my lawyer.
 19 Q. And you read it when you got it.
 20 So was there anything in this document that
 21 you considered to be false?
 22 A. In -- in what context?
 23 Q. Well, this is something called a Petition to
 24 Cancel, a document that's filed in a -- in the trademark
 25 office.

1 Had you ever seen anything like this before?
 2 A. No. From what I see right now, he filed to
 3 cancel my -- my -- my -- my trademark. That's what I'm
 4 fighting for, because it's not going to happen. So it's
 5 my trademark; so...
 6 Q. Have you ever had any matters in the Trademark
 7 Trial and Appeal Board before?
 8 A. Never. Never ever been to court either, no.
 9 Q. And this is your first one, then?
 10 A. That's correct.
 11 Q. Okay. Okay.
 12 In this document your company is referred to
 13 as the respondent?
 14 Do you understand that?
 15 A. Okay.
 16 Q. Okay. The document makes allegations about
 17 you -- your company, and it says that respondent, which
 18 is Afaf Aviation LLC, is a New York limited liability
 19 company; is that correct?
 20 A. That's correct.
 21 Q. And its address is 337 149th Street, second
 22 floor, Flushing, New York 11354; is that correct?
 23 A. Correct. It's there, but I moved out of that
 24 place, but okay, yeah. We opened it up there.
 25 Q. Is that a -- is that an address where the

1 company has an office?
 2 A. No.
 3 Q. Is that currently the company's address?
 4 A. Yes. You can use that address, but that's not
 5 what -- that's not where the company look at it.
 6 Company looks at the airport. That's not an airport.
 7 It's a -- it's an office in an unusual area.
 8 Q. What's at the Flushing address?
 9 A. That's where we receive mails. We do
 10 transactions and all that stuff, but office stuff.
 11 Q. Do you actually go there? Is there an office
 12 there?
 13 A. Yes, I go there.
 14 Q. Okay. But you're not there now?
 15 A. That's correct. No.
 16 Q. Okay. Then it goes on to say you filed a
 17 trademark application and what's on the trademark
 18 application. Okay.
 19 And that application subsequently became a
 20 trademark registration. Correct?
 21 A. Correct.
 22 Q. Did you file an answer to this -- to
 23 Exhibit 4, the petition to cancel?
 24 MR. WENGROVSKY: Objection. I think you're
 25 familiar with the records. You saw the answer was

1 filed with TTAB. I think we're wasting time here.
 2 BY MS. DOPPELT:
 3 Q. You can answer, Mr. Afaf?
 4 A. I don't have an answer.
 5 Q. I'm sorry?
 6 A. I do not have an answer now. I don't know.
 7 Q. You don't know if you filed an answer?
 8 MR. WENGROVSKY: You were served with a copy
 9 of the answer. Please move on.
 10 MS. DOPPELT: I'm asking the witness.
 11 MR. WENGROVSKY: Why?
 12 BY MS. DOPPELT:
 13 Q. You can answer, Mr. Afaf?
 14 A. I don't have an answer.
 15 Q. Okay. Mr. Afaf, let me show you Exhibit 5
 16 A. Sure.
 17 (Petitioner's Exhibit 5 was marked for
 18 identification.)
 19 BY MS. DOPPELT:
 20 Q. Exhibit 5 is labeled Registrant's Answer to
 21 Petition to Cancel. Okay. I'm going to turn the page.
 22 Okay.
 23 Mr. Afaf, have you ever seen this document
 24 before?
 25 A. Yes.

1 Q. When did you first see it?
 2 A. I don't recall.
 3 Q. Did you review it before it was filed?
 4 A. Correct.
 5 Q. Okay. I'm going to try to put two documents
 6 up here together. But I'm not sure I can do that, so
 7 let me try to do that.
 8 I don't think I know how to do that.
 9 Back to Exhibit No. 4 for a moment. This is
 10 the petition to cancel.
 11 Is that what you see on your screen, Mr. Afaf?
 12 A. Correct.
 13 Q. Okay. Thank you.
 14 If you look at paragraph 10 of the petition to
 15 cancel, which is Exhibit 4 -- and can you just read
 16 through it.
 17 A. Mean to -- mean to read it for you?
 18 Q. Paragraph 10 of what should be on your screen.
 19 A. Sure. The petitioner used its mark in
 20 connection with --
 21 Q. Yeah. You don't have to read it out loud.
 22 So do you -- do you admit that or deny that or
 23 you don't know?
 24 MR. WENGROVSKY: Objection. The answer speaks
 25 for itself.

1 BY MS. DOPPELT:
 2 Q. Okay. You can answer.
 3 A. I don't know.
 4 Q. You don't know?
 5 A. Correct.
 6 Q. Okay. Can you read paragraph 11, and tell me
 7 if you admit or deny or don't know.
 8 A. I don't know. You have to ask -- I don't
 9 know.
 10 Q. How about paragraph 12?
 11 MR. WENGROVSKY: Repeat the objection for the
 12 whole line of questioning: The answer speaks for
 13 itself.
 14 BY MS. DOPPELT:
 15 Q. Okay. Mr. Afaf, do you admit or deny
 16 paragraph 12?
 17 MR. WENGROVSKY: You're asking for legal
 18 conclusions, and you're wasting everybody's time.
 19 BY MS. DOPPELT:
 20 Q. Go ahead, Mr. Afaf.
 21 A. I don't know.
 22 Q. You can answer.
 23 A. I don't know, ma'am. I don't know, ma'am.
 24 Q. You don't know? Okay.
 25 What about paragraph 13? And I want you to

1 read it first.
 2 A. Thirteen is: Respondent's aviation-related
 3 services --
 4 Q. No. You don't have to read it out loud, just
 5 to yourself.
 6 A. Okay. I don't know.
 7 Q. Do you agree with that?
 8 A. I -- I don't know.
 9 Q. Okay. And what about paragraph 14?
 10 A. Same answer.
 11 Q. You don't know? Is that the answer?
 12 A. Correct. Correct.
 13 Q. Okay. Okay.
 14 Read through paragraph 15, and tell me if you
 15 agree or disagree or you don't know.
 16 A. I don't know.
 17 Q. Okay. Mr. Afaf, I'm going to show you a
 18 series of exhibits. They are going to be 6, 7, and 8.
 19 And I'm going to ask you, first, if you've ever seen
 20 them before. So look at them on the screen, and tell me
 21 if you've seen them.
 22 (Petitioner's Exhibit 6, Exhibit 7 and Exhibit
 23 8 were marked for identification.)
 24 BY MS. DOPPELT:
 25 Q. This is Exhibit No. 6. It's labeled

1 Petitioner's First Request for Production to Respondent.
 2 Have you ever -- have you -- have you ever
 3 seen this document before?
 4 A. Yes.
 5 Q. Okay. Where did you see it?
 6 A. Through my lawyer.
 7 Q. Okay. And now I'm showing you Exhibit 7,
 8 which is labeled Petitioner's First Set of
 9 Interrogatories to Respondent.
 10 Have you ever seen this before? I'm sorry?
 11 A. I think so. I don't see the -- if you can
 12 scroll down. I only see the title, but I believe so.
 13 So whatever you sent to my lawyer, I believe I've seen
 14 it through him.
 15 Q. Okay. Will it help if you look at the rest of
 16 the document to remind you whether you've seen it or
 17 not?
 18 A. Yes.
 19 Q. Do you know what interrogatories are?
 20 A. I'm not familiar, but I have seen it through
 21 my lawyer.
 22 Q. Okay. All right. Now I'm going to show you
 23 the last in this series. This is called Petitioner's
 24 First Request for Admissions to Respondent, and it's
 25 been labeled as Exhibit 8.

1 Have you seen this one before?
 2 A. I believe so.
 3 Q. Okay. So let's go back to the first -- the
 4 first one that I showed you in this group. That
 5 includes Exhibit 6, Petitioner's First Request for
 6 Production to Respondent.
 7 Do you see at the end of this document
 8 something called Certificate of Service?
 9 A. Yes, I do see it.
 10 Q. And what date is on the certificate of
 11 service?
 12 A. It's certified that on February 10, 2020, is
 13 what I see.
 14 Q. Okay. And do you know what this document was
 15 asking you to do?
 16 A. Whatever it asks for -- I'm not sure.
 17 Q. Okay. So let's go back to the page of the
 18 document which -- Mr. Afaf, on page 3 of the document,
 19 it says document request.
 20 Do you see that?
 21 A. Where?
 22 Q. Oh, let's see. Sorry.
 23 A. Oh, yeah, I see it. Document request, I see
 24 it.
 25 Q. Okay. I'm sorry. That's not page 3. That is

1 page 6. Page 6 says document request. Okay.
 2 And you see number one asks for documents
 3 referring to your mark; number two asks you for
 4 documents referring to your adoption of the mark? Do
 5 you see those?
 6 A. Yes, ma'am.
 7 Q. And in response to these document requests,
 8 did you do anything?
 9 A. Correct. I sent 64 pages, including witnesses
 10 testifying that I used the logo since 2/13. And they
 11 saw me literally drawing it.
 12 Q. So in this document, there's a series of
 13 requests. In fact, there are 33 requests. Did you
 14 provide documents responsive to all of them, if there
 15 were such documents?
 16 A. To -- to my knowledge, I -- I made a PDF of
 17 64 pages explaining when they used the logo and how they
 18 created it. I even sent pictures of when I was putting
 19 it together and when I was drawing it, and I also
 20 included letters from the witnesses that -- they --
 21 they -- they -- they saw me drawing the logo and put it
 22 together. And even the guy who put it together for me,
 23 he put his letter right there, that he did it -- he put
 24 it together on the computer, because I draw it on --
 25 you know, on the paper.

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1 Q. Well, for instance -- let me -- did you
2 respond to all the document requests and give me all the
3 documents you had that were responsive?
4 A. I believe, yes.
5 Q. Okay. So, for instance, on number one, which
6 says everything relating to your selection of your
7 trademark including any searches you did, did you give
8 me any -- all of that?
9 A. Yes.
10 Q. And it asks for all documents -- number three
11 asks for all documents relating to your use of the mark
12 in connection with the -- since the beginning of your
13 business.
14 You gave me everything you had?
15 A. Correct.
16 Q. Did you give me any -- do you see number four?
17 It asks for all the documents referring to your
18 application for trademark registration.
19 Did you give me those?
20 A. Yes.
21 Q. Do you have the documents relating to your
22 trademark registration?
23 A. Yeah. The certificate, yes.
24 Q. Do you have what you filed with the patent and
25 trademark office?

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1 A. I believe so.
2 Q. And all the correspondence between you and the
3 patent and trademark office, do you have that and did
4 you give that to me?
5 A. I -- I do. I gave it to you. I'm not sure.
6 I don't recall, but I do, obviously. The trademark is
7 coming from an agency, so it had to go back and forth.
8 So, yeah, that's correct, because that's where it was
9 registered because I sent it in. Correct.
10 Q. Okay. If you look at number seven, it asks
11 you for all documents showing the dates of first use of
12 your mark in connection with the services that you filed
13 for.
14 Did you give me all those documents?
15 A. Correct, I did.
16 Q. And that was part of the 64 pages that you
17 were referring to?
18 A. Yes, ma'am.
19 Q. And do you have any documents that show your
20 actual first use date? That would be number eight --
21 question number eight?
22 A. Yes, I do. That's -- that's on the -- I can
23 pretty much show it to you. Yes, I do. And it's on
24 the -- a PDF. That's including the testimony of all the
25 witnesses and also a screenshot of Facebook that I used

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1 in 2013 on my private Facebook. And, yes, I did. You
2 can see it on page --
3 Q. Okay. We'll look at that.
4 A. Okay.
5 Q. That'll be an exhibit so that we can see what
6 you're talking about.
7 A. Yeah. Sure.
8 Q. Okay. So did you give me documents that show
9 the price at which you offer your services?
10 A. I think -- I think I did, yes. I don't think
11 I put the price there, but I have the letter from the
12 guy over there that did it. If it's not there, I don't
13 remember.
14 Q. Now, when I talk about your services -- I'm
15 sorry, Mr. Afaf.
16 Did I interrupt you?
17 A. No, no. I'm just -- I'm just answering the
18 question.
19 Q. When I -- when I talk about your services, I'm
20 talking about your business -- the business that you do.
21 What business is your company in?
22 A. Flight school, aircraft flight. You go on
23 planes and teach you how to become a pilot. Flight
24 school.
25 Q. So you teach people how to fly and you also

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1 rent airplanes?
2 A. That's correct.
3 Q. Okay. And when did you start teaching people
4 how to fly --
5 A. After -- after --
6 Q. -- in your business -- in your own business?
7 A. Say that again.
8 Q. In your own business, when did you start
9 teaching students how to fly?
10 A. After I graduate university and I become
11 flight instructor. Then I started giving lessons.
12 Q. When was that?
13 A. I graduated in 2015.
14 Q. You graduated from what?
15 A. From college. From Farmingdale State College,
16 the one down in New York.
17 Q. And so in 2015 is when you started giving
18 lessons to people about how to fly?
19 A. Late '15s. Begin in 2016. Correct. But
20 that -- but that one does not have to do with the logo.
21 That's when I started giving lessons. That's not when I
22 started doing business. It's different.
23 Q. When did you start doing business?
24 A. 2013.
25 Q. What business were you doing in 2013?

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1 A. Recruiting people to our flight school for a
2 Positive Rate for students. And I got my -- my cut of
3 it, which I got -- I got money, and I got flight -- free
4 flight training from that school when I got students
5 coming to school for that. And back then I was a
6 student -- a pilot student.
7 Q. So in 2013 you were a college student.
8 Correct?
9 A. Correct. And so I go to college as a -- full
10 time, and then I fly part time. So the company I fly
11 with -- so the more students I brought to them as
12 customers to sign up with them, I got free lessons. So
13 it's like marketing, so I used the -- my logo and pretty
14 much the same business card.
15 Q. And you were trying to have students come to
16 the school you were working for. Correct?
17 A. That's correct.
18 Q. And what is the name of that school?
19 A. Positive Rate Gear Up. It's also on the PDF,
20 with an owner that's testifying that I worked for him.
21 There's a letter right there, as well as his logo with
22 my logo and the same business card that I referenced.
23 Q. And you were promoting the services of his
24 company. Correct?
25 A. Correct. He's the flight -- flight school, so

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1 I -- I used it as a marketing, as an aviation consult.
2 So I consult people about how to fly and what they need
3 and hours and how to get their pilot stuff and bring
4 them to him. So instead of repaying me, I got free
5 hour -- free hours to get my time and become my own
6 business.
7 Q. Are you qualified as a flight -- as a flight
8 instructor?
9 A. That's correct.
10 Q. When did you become qualified?
11 A. 2016.
12 Q. '16?
13 A. Correct.
14 Q. Do you have some kind of certification that
15 says that?
16 A. I do.
17 Q. What's it called?
18 A. You -- you go to faa.gov, type my name, you'll
19 see all my qualifications from Boeing 737 until
20 commercial and air -- airline transport pilot, flight
21 instruction, all kind of -- kind of planes.
22 Q. So you were not qualified to teach people how
23 to fly airplanes until you received that certification
24 in 2016; is that correct?
25 MR. WENGROVSKY: Objection.

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1 You can answer.
2 BY MS. DOPPELT:
3 Q. Did you answer?
4 A. Well, it does not have nothing to do with
5 consulting. That's a -- teaching is a different matter,
6 and then consulting, bringing customer as any -- anybody
7 can talk to you about bringing business -- other
8 business. You don't have to teach, because at that time
9 I did not teach.
10 Q. Because you weren't qualified to teach.
11 Correct?
12 MR. WENGROVSKY: Objection.
13 Go ahead.
14 BY MS. DOPPELT:
15 Q. You can answer, Mr. Afaf.
16 A. I don't have an answer.
17 Q. Well, yeah, you do, actually.
18 A. Well, nobody --
19 MR. WENGROVSKY: Repeat the objection.
20 BY MS. DOPPELT:
21 Q. I'm sorry?
22 A. I don't have an answer.
23 Q. Okay. Does your company participate in trade
24 shows?
25 A. What?

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1 Q. Trade shows.
2 A. No.
3 Q. Are you a member of any trade organization --
4 you -- when I say you, I'm usually referring to your
5 company, unless the context suggests I'm referring to
6 you personally.
7 So does your company participate in any trade
8 associations?
9 A. Can you rephrase the question.
10 What do you mean by that?
11 Q. Is your company a member of any organizations?
12 A. Think so.
13 Q. Okay. Mr. Afaf, let me show you Exhibit 9.
14 (Petitioner's Exhibit 9 was marked for
15 identification.)
16 BY MS. DOPPELT:
17 Q. This is Exhibit 9. It should be on your
18 screen now. It says responses to requests for
19 production.
20 Have you ever seen this document before?
21 A. I believe so.
22 Q. When did you see it?
23 A. Whenever you gave it to my lawyer, he would
24 show it to me. But I don't remember the date.
25 Q. Okay. Just to clarify, this is intended to be

1 an answer to the request for documents that we were
2 looking at in Exhibit 6, so this was the answer that was
3 filed on your behalf.

4 Q. Did you review it before it was filed?

5 A. My lawyer always asks and talks to me about
6 anything, so I -- I -- I believe in him, I trust him,
7 so definitely we communicate. And I will look at it
8 before I send it.

9 Q. So you saw this document before it was sent to
10 me; is that correct?

11 A. No. So you give it to my lawyer. Lawyer
12 discusses stuff with me. Then he does things to help
13 me. That's why he's my lawyer.

14 Q. Do you know when this document was filed?

15 A. I don't remember.

16 MR. WENGROVSKY: Objection. The document is
17 dated.

18 BY MS. DOPPELT:

19 Q. Did you provide me with any financial
20 information about your company?

21 A. I don't think I'm required to do that, but I
22 don't recall.

23 Q. Did you provide me with any information about
24 your Internet names -- your company's Internet names?

25 A. What does that mean? I don't know Internet

1 names.

2 Q. Domain names.

3 A. Domain name?

4 Q. Yes.

5 A. The company is afaviation.com.

6 Q. Does your company -- did your company register
7 any other domain names besides that one?

8 A. Yeah.

9 Q. What are they?

10 A. Afaf Company, Afaf property management,
11 Afaf Air, all of them. Other companies.

12 Q. Are those five websites?

13 A. No. The Domain is there, but they're not --
14 we're -- we're working on them.

15 Q. Are those for other businesses besides this --
16 what you do in this company?

17 A. That's correct.

18 Q. Are they registered in your own personal name?

19 A. Correct.

20 Q. How many domain names do you have registered?

21 A. Five or more. Probably about four or five,
22 yeah.

23 Q. Do you have -- does your company have
24 something called an operating agreement?

25 A. We'd hope.

1 Q. It's a corporate document when you form a
2 company -- an LLC?

3 A. Yes, I do.

4 Q. You do?

5 A. Correct.

6 Q. Did you give that to me?

7 A. What -- what do you mean about a corporate
8 agreement? So it's very much -- when you file that with
9 New York State, you get the letter from them, plus you
10 get a number. Right? Is that what you're talking
11 about?

12 Q. No. I'm talking about a document that would
13 be written by you or your lawyer that sets out the rules
14 for your company. I don't think you have to file it
15 with the State.

16 A. No. I don't -- I don't think he has to
17 consent. Rules is my rules, so it's only my -- it's
18 only my customer.

19 Q. Did you form your own corporation yourself?

20 A. Yes. I mean halfway -- no, no. I take that
21 back. With my college.

22 Q. Your college helped you file for your
23 corporation?

24 A. That's correct.

25 Q. Or your company?

1 A. That's correct. That's correct. They have an
2 office. So when you graduate, they help you stand up on
3 your feet and open up your own business.

4 Q. Okay. Okay.

5 Let me show you -- now we're looking at
6 Exhibit 8. It's a request for admission.

7 Did you see these before?

8 A. I think so. It looks familiar.

9 Q. Okay. Well, if you need to see more of it, I
10 can show you more. And this is asking you to admit or
11 deny the statements in this document.

12 Do you remember doing that?

13 A. I don't remember.

14 Q. Do you know if you filed a response to this
15 document?

16 A. I filed it with my -- my lawyer. My lawyer
17 take care of it, because I have other stuff to do,
18 That's why.

19 Q. Okay. So do you see on this document on this
20 page of the document eight things that are under request
21 for admission? Do you see those?

22 A. Request for admission, Okay. Go ahead.

23 Q. Okay. So read the first one. It's asking you
24 to admit that you did not use your mark before

25 August 2014.

1 Do you admit or deny that?
 2 A. Say that question again one more time.
 3 Q. You see where it says request for admission
 4 number one: Admit that you did not -- respondent's mark
 5 is your logo?
 6 A. Okay. Well, my question would be, I had a
 7 logo in 2013 and I used it in 2013. And I sent you a
 8 proof that I used the logo in 2013, with the date on it
 9 being published in Facebook. Plus I have witnesses that
 10 they -- that they test -- testified that they saw me
 11 using it in 2013. All of it on PDF.
 12 Q. So you deny this? Number one is denied.
 13 Correct?
 14 A. Whatever the answer may be, but I gave you an
 15 answer. I did use it in 2013 with witnesses that saw me
 16 using it, with approval of a business card also.
 17 Q. So number one -- the answer to number one is
 18 denied. Correct?
 19 A. I guess. Maybe yeah.
 20 Q. And read request number two: Admit you did
 21 not use your mark prior to 2015.
 22 Admit or deny?
 23 MR. WENGROVSKY: Objection. It's been asked
 24 and answered. The testimony is clear that the
 25 respondent used the mark in 2013. We don't need to

1 go through each and every subsequent year to see if
 2 there was usage prior to that year.
 3 Please move on.
 4 BY MS. DOPPELT:
 5 Q. You can answer, Mr. Afaf, number two.
 6 A. The answer is clear. I did use the mark -- my
 7 trademark in 2013.
 8 Q. Okay. Did you file a response to this request
 9 for admissions?
 10 A. Working and collaborating with my -- my
 11 lawyer.
 12 Q. Okay. I'm showing you Exhibit 17 -- it's
 13 labeled Registrant's Answers to Request For Admission.
 14 (Petitioner's Exhibit 17 was marked for
 15 identification.)
 16 BY MS. DOPPELT:
 17 Q. Did you file this on -- was this filed on your
 18 behalf?
 19 A. We worked -- collaborated with my lawyer. We
 20 worked things together. I -- I don't -- I don't
 21 remember all the wording, because I'm busy. I have a
 22 lot of other business to run: working for the airline,
 23 working for government. So I don't have it word by
 24 word, but we collaborate. And his job is to answer --
 25 to -- to -- to ans -- to try to help me.

1 Q. Okay. Number eight asks you to admit that
 2 your mark resembles our client's mark.
 3 A. Well, you can -- you can --
 4 Q. And you filed an answer that says denied.
 5 A. You can rephrase it as his mark resembled
 6 mine, because mine is in 2013. And that's the answer.
 7 Q. So you deny that your mark resembles
 8 Mr. Badawi's mark?
 9 A. That's correct, so he copied mine. That's
 10 what that means.
 11 Q. And number nine in the request for admission
 12 asks you to admit that the design in your mark is
 13 substantially the same as the design in the Badawi mark,
 14 and you denied that; is that accurate?
 15 A. Correct.
 16 Q. And why is that? You don't think the marks
 17 are similar or substantially the same?
 18 A. Well, it's obvious that -- no, it's obvious
 19 similar because he copied the same thing and didn't make
 20 a change.
 21 Q. Do you know when this response was filed?
 22 A. I don't know, ma'am.
 23 Q. Okay. This is the last page of Exhibit 17,
 24 and it says April 7, 2020.
 25 Do you have any reason to believe that's not

1 accurate?
 2 A. I trust my lawyer. I'm not -- I don't
 3 think -- I wouldn't think that. I don't know.
 4 Q. Did you review this document before it was
 5 served on us?
 6 A. Correct.
 7 Q. Yes, you did?
 8 A. Yes.
 9 Q. And it's accurate? You stand behind its
 10 accuracy. Correct?
 11 A. That's correct.
 12 Q. Did your lawyer file the responses when they
 13 were due?
 14 A. What that means? I'm sorry. I'm -- I didn't
 15 get the question correctly. I mean, understand it.
 16 What was the --
 17 Q. The discovery that was shown in Exhibits 6, 7,
 18 and 8, did you file responses to those when the
 19 responses were due?
 20 A. So whatever you ask my lawyer, my lawyer would
 21 ask me. And we do it together. I would review it and
 22 he would submit it.
 23 Q. Did you do it when they were due?
 24 A. I didn't get -- I don't understand the
 25 question, but -- I don't know.

1 Q. Okay.
 2 (Petitioner's Exhibit 10 was marked for
 3 identification.)
 4 BY MS. DOPPELT:
 5 Q. Okay. Okay.
 6 Let me show you Exhibit 10.
 7 Have you seen this document before?
 8 A. I believe so. I mean, I don't -- I don't
 9 think it has mark information. So if we go down, may
 10 see it.
 11 Q. Do you know what this is?
 12 MR. WENGROVSKY: Can you just scroll down.
 13 THE WITNESS: I don't see it.
 14 MS. DOPPELT: Sorry. Okay.
 15 THE WITNESS: Yeah. I believe that's when I
 16 filed it with the -- with the corporate office.
 17 Yeah. I don't -- I don't remember.
 18 BY MS. DOPPELT:
 19 Q. So the front of Exhibit 10 says that the mark
 20 is AFAP Aviation. Is this -- oh, sorry. And it shows
 21 the logo in the right-hand corner.
 22 Can you see that? It's kind of covered up on
 23 my version of this.
 24 A. I see it.
 25 Q. Can you see the logo over here?

1 A. Yes, ma'am.
 2 Q. Okay. Is that your trademark?
 3 A. That's correct.
 4 Q. And it shows on this document -- this is a
 5 document that comes from the patent and trademark office
 6 website.
 7 A. Okay.
 8 Q. Have you ever been to that website?
 9 A. Yes.
 10 Q. It shows that your filing date of your
 11 application was May 26, 2018; is that correct?
 12 A. I believe so, yes.
 13 (Petitioner's Exhibit 11 was marked for
 14 identification.)
 15 BY MS. DOPPELT:
 16 Q. Okay. And to that point, let's look at
 17 Exhibit 11. Okay.
 18 Have you ever seen this document?
 19 A. I believe so. That's what can I got from --
 20 from the website, I believe.
 21 Q. Okay. I'm going to just say this is the --
 22 this is the application for your trademark.
 23 A. Okay.
 24 Q. Did you -- did you look at this before?
 25 A. I believe so.

1 Q. Did you fill in the -- did you fill in the
 2 blanks in this application?
 3 A. I don't recall.
 4 Q. Who prepared this application?
 5 A. Help from some individual.
 6 Q. I'm sorry?
 7 A. Help with -- from some individual.
 8 Q. What was the person's name who prepared this
 9 application?
 10 A. I don't recall it right now.
 11 Q. Is it somebody you hired to prepare this
 12 application?
 13 A. I don't remember. Somebody helped me out
 14 to -- to know -- to know to get to the website and put
 15 it together, because it was complicated.
 16 Q. Who helped you?
 17 A. A person that I don't recall right now.
 18 Q. Was it a friend of yours?
 19 A. Pretty much, yes.
 20 Q. You don't remember that person's name?
 21 A. That's correct. It was a long time ago.
 22 Q. Who helped you fill out this application?
 23 A. That's correct.
 24 Q. So you're not the person who sat at a computer
 25 screen and filled in the information?

1 MR. WENGROVSKY: Objection. That was not the
 2 testimony.
 3 BY MS. DOPPELT:
 4 Q. Are you?
 5 A. I wasn't on the computer the whole time.
 6 Q. I'm sorry. I didn't hear you.
 7 A. I was in front of the computer.
 8 Q. With somebody else?
 9 A. I know -- I don't know somebody asked for
 10 help: What is this? What is that? But the paperwork
 11 and stuff, everything's done by me.
 12 Q. But you don't know who that person was, or you
 13 can't remember that person's name?
 14 A. I -- I don't remember the name right now.
 15 Q. Was that person a trademark lawyer?
 16 A. I don't re -- I don't remember.
 17 Q. Was that person a trademark expert?
 18 A. I don't remember.
 19 Q. Why did you ask that person to help you?
 20 A. Because I have friends. They -- they're
 21 building -- building websites, building stuff. And so I
 22 asked -- asked people, like, What do you think? What
 23 are -- what should I do? and stuff. Like anybody -- and
 24 haven't you ever asked for a friend for something that
 25 you don't understand or you're not good at it.

1 Q. Okay. And if you look on the second page of
 2 Exhibit 11, which is what I have on the screen right
 3 now, it says international class 041.
 4 Do you know what that refers to?
 5 A. No, I don't remember.
 6 Q. Do you know how you knew what to put in there?
 7 A. I don't remember. Like I said, I asked
 8 people, What is it? They Google it for me, and they
 9 help out. That's how I keep moving.
 10 Q. And where it says identification, the answer
 11 that's filled in here is airplane flight instruction.
 12 Is that what you put in there?
 13 A. That's correct. It's what we do.
 14 Q. And that's what your company did at that time,
 15 when you were filling this out?
 16 A. That's correct.
 17 Q. Okay. And you filled in the dates here
 18 yourself as well. Correct?
 19 A. That's correct.
 20 Q. Okay. Down at the bottom of Exhibit 11, on
 21 this page of Exhibit 11, it has -- it asks for e-mail
 22 address. There are two e-mail addresses there. Can you
 23 tell me what they are -- or what -- I don't mean to read
 24 them.
 25 I mean whose are they?

1 A. Of course. That's my personal e-mail, and
 2 that's my friend helping me out; so now we know who they
 3 are.
 4 Q. Okay. So iflyafaf@gmail.com is your personal
 5 e-mail?
 6 A. That's correct.
 7 Q. Is it still?
 8 A. Correct.
 9 Q. And the other one is the friend you said
 10 helped you?
 11 A. That's correct.
 12 Q. notifications@trademarkengine.com, that's your
 13 friend?
 14 A. That's correct.
 15 Q. And does that help you remember who that was?
 16 A. I know him. Yeah, that's correct.
 17 Q. And where it says signature -- this is
 18 electronic, of course -- you signed this -- signed it
 19 electronically. Correct?
 20 A. That's correct.
 21 Q. It asks for your position and you wrote owner.
 22 What does that refer to?
 23 A. Owner. That's me. I'm the owner.
 24 Q. The owner of what?
 25 A. Of the business, of that company. I was --

1 who owned that company and owned that logo.
 2 Q. Now, Mr. Afaf, why did you file this
 3 application?
 4 A. Because there's a logo that I -- I consider my
 5 legacy that I built, that I'd love to have for the rest
 6 of my life; so I want to protect it and have it.
 7 Q. What made you file it at this particular time?
 8 A. Because that's when I --
 9 Q. -- in 2018?
 10 A. That's the time when I still had enough funds
 11 to do some stuff. Because at that time, I did not -- I
 12 didn't see that I should spend money on trademarks,
 13 because it costs a lot of money to put it -- to put it
 14 on. So I was taking care of some other stuff: doing
 15 stuff at the office, doing this, doing that.
 16 So later on when, I was going to have some
 17 funds that I could do more. I did secondary stuff
 18 that's not really primary to do in business.
 19 Q. And you see here on this same exhibit there's
 20 something called declaration, and you are -- you are the
 21 declarant.
 22 You signed here on May 26, 2018. Correct?
 23 A. That's what -- what it says, yeah.
 24 Q. So you agree with everything that's checked
 25 off above you -- right here above your signature?

1 A. Yes.
 2 Q. Okay. This is the trademark you filed for?
 3 A. That's correct.
 4 Q. What is shown in this trademark?
 5 A. That's, first, jet -- that airflow with my
 6 last name and aviation under that with a wing coming
 7 from the engine -- or smoke coming from the engine with
 8 blue that looks like ski with blue and back. My last
 9 name up there, and that's the first jet that I flew,
 10 Embraer 145.
 11 Q. When did you first fly that jet?
 12 A. I've been in it when I was student, and the
 13 time I've been certified in it and fly it was 2017.
 14 Q. Okay.
 15 A. As a pilot -- pilot to fly that jet, but I've
 16 been in that jet before, because I've been promised a
 17 job too for same company a long time ago.
 18 Q. Okay. We're still on Exhibit 11. This is
 19 still part of your trademark application.
 20 Do you recognize this?
 21 A. That's the second website I had that had been
 22 hacked.
 23 Q. I'm sorry.
 24 Is this a website for Afaf Aviation?
 25 A. Not anymore. That website had been hacked.

1 like I said. We have a new website, same name, same
 2 logo, but that one been gone.
 3 Q. Did you design this website?
 4 A. The company that put website -- put logo
 5 together on a computer make the website, and I have a
 6 letter from the agency that put the logo together and
 7 the website. And all of them in the PDF that I sent
 8 you -- my lawyer sent you.
 9 Q. When was this website up?
 10 A. I don't remember, because I think that was the
 11 second one. That was the second one. I don't remember,
 12 but it's an old one.
 13 Q. Is this exactly what the page looked like?
 14 A. I don't remember that one.
 15 Q. This is the last page of your application.
 16 It's called Statement of Consent, where it says you
 17 consent to the registration of your name in this
 18 trademark application.
 19 Why did you attach that to your trademark
 20 application?
 21 A. I don't remember that part, but I -- I consent
 22 my friend to do the job for me and he do it; so I don't
 23 remember that part.
 24 Q. So you don't know who told you to do that?
 25 A. It's not -- it's not I don't remember who did

1 it. I don't remember in that context of what you're
 2 saying right now. I don't -- I don't recall the
 3 procedure.
 4 Q. And did anything happen in May of 2018 that
 5 caused you to file at that time?
 6 MR. WENGROVSKY: Objection. It's been asked
 7 and answered. Move on.
 8 BY MS. DOPPELT:
 9 Q. You can answer.
 10 MR. WENGROVSKY: No, don't answer, please.
 11 It's been asked and answered. The answer
 12 specifically had to do with funding. I recall it
 13 quite well. Move on, please.
 14 MS. DOPPELT: So are you instructing the
 15 witness not to answer.
 16 MR. WENGROVSKY: Yes.
 17 (Petitioner's Exhibit 12 was marked for
 18 identification.)
 19 BY MS. DOPPELT:
 20 Q. Okay. Let me show you Exhibit 12. It's
 21 labeled Examiner's Amendment, and the date on it is
 22 September 20, 2018.
 23 Do you know what this is?
 24 A. So I understand that there's a conflict, that
 25 no one can use it before. I find it. See that right

1 there? It says found new conflict in mark that would
 2 bar registration and the trademark itself. But the
 3 government did the job. They did the registration.
 4 They did not find anybody before me that was using it,
 5 and then they registered it, so I understand.
 6 Q. Do you know what they looked at in their
 7 search?
 8 A. It's the government. I don't -- I don't know
 9 what -- I don't know. I don't know their job, so all I
 10 know they did the job. Look, whatever access they have,
 11 I'm sure they have more. And they granted it to me.
 12 Q. Did you talk to a trademark examiner on the
 13 telephone?
 14 A. I don't remember.
 15 Q. Did you agree to modify the description of the
 16 mark?
 17 A. I don't remember.
 18 Q. Did you agree to disclaim the word aviation?
 19 A. Disclaim? I don't remember this -- this.
 20 Aviation is a general word, so everyone can use it. So
 21 it's what -- my understanding.
 22 Q. Do you remember having a conversation with the
 23 trademark examiner about that?
 24 A. I don't remember.
 25 Q. Okay. Now I'm showing you Exhibit 13.

1 (Petitioner's Exhibit 13 was marked for
 2 identification.)
 3 BY MS. DOPPELT:
 4 Q. Do you know what this is?
 5 A. That's a certificate they sent me after they
 6 granted me the logo. And the certificate.
 7 Q. And have you seen this before?
 8 A. When they sent it to me, I saw it.
 9 Q. Do you have -- do you have it in your office?
 10 A. Not in my office. My other office, yes.
 11 Q. Did you give me a copy of it?
 12 A. That's correct. You have it right now. I
 13 mean, yes, it's on the -- on the PDF.
 14 Q. Well, what I'm showing you isn't what you gave
 15 me. I'm just showing you what I have. Okay. So --
 16 A. But it's -- it's -- it's similar one, what
 17 they give me. Just one has colors and with the company
 18 and whatever. It's the same thing.
 19 Q. Okay. So it says on it the date of filing,
 20 the date of first use, the date -- the disclaimer, all
 21 this stuff.
 22 This is what you told them in your
 23 application. Correct?
 24 A. That's correct.
 25 (Petitioner's Exhibit 14 was marked for

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1 identification.)
2 BY MS. DOPPELT:
3 Q. Okay. Now I'm showing you Exhibit No. 14.
4 Do you know what this is?
5 A. That's my other business.
6 Q. It's your other business?
7 A. That's correct.
8 Q. What business is this?
9 A. It's a -- that's a Charter.
10 Q. Are you in this business?
11 A. That's correct. I am.
12 Q. Did you file an application for your Charter
13 business?
14 A. Yes, I did, but I didn't continue it. Needed
15 funds. It costs money.
16 Q. So you filed it but let it be abandoned; is
17 that correct?
18 A. It's not abandoned, but I will come back for
19 it later. It's just I don't have the funds to keep
20 going back and forth. But business is alive. It's
21 alive and good.
22 Q. And what was this mark for -- or what's the
23 mark? What's the mark itself?
24 A. It's Afaf Air.
25 Q. I'm looking for the picture.

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1 A. It's on top.
2 Q. Is that the picture of it?
3 A. That's correct.
4 Q. Is it the same logo that's used on the mark
5 for Afaf Aviation?
6 A. Pretty much. The last name is the same as my
7 last name. The plane is the same. Taking off aviation
8 and put air. Same -- same kind of letters and stuff
9 like that I would write it, yes. Correct.
10 Q. Did you file this application on your own?
11 A. With help from the same friend that I know,
12 and then I didn't continue.
13 Q. It says the owner name is -- this is your
14 personal name. Correct?
15 A. Yeah, that's correct.
16 Q. Why didn't you file it in the name of your
17 company?
18 A. I want to have separate names. Separate
19 businesses.
20 Q. And this gives your name and address as
21 Grand Rapids, Michigan.
22 Was that your address?
23 A. That's correct, yes.
24 Q. Did you live in Grand Rapids, Michigan, in
25 August of '18?

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1 A. Yes, I did. I'm an airline pilot. I'm all
2 over the places.
3 (Petitioner's Exhibit 15 was marked for
4 identification.)
5 BY MS. DOPPELT:
6 Q. Okay. Let me show you Exhibit 15.
7 A. Sure.
8 Q. I believe this is the application that was
9 filled in for Afaf Air?
10 A. Okay.
11 Q. And did you fill this one in?
12 A. Yes. With the help of a friend, again.
13 Q. That same friend you referred to for
14 Afaf Aviation?
15 A. That's correct.
16 Q. And you say that the services -- you said that
17 the services in here, where it says identification: I
18 will be doing Charter Part 135 transporting people.
19 A. That's correct.
20 Q. What does that mean?
21 A. Transporting people. They can prepare -- like
22 we have airlines, but in private. So you call; we take
23 you wherever you want to go.
24 Q. What is part 135?
25 A. That's a certification. It's like

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1 Airlines 121. Like American Airlines and Delta. That's
2 Part 121. 135 is a private charter. Like you tell
3 me -- you say, I want to go somewhere else. I want a
4 private plane. We take you on a plane by yourself,
5 instead of going with passengers.
6 Q. So Afaf Aviation does not do this business?
7 Afaf Air does this business?
8 A. That's correct.
9 Q. And, again, we come down to the e-mail
10 addresses. So these are the same -- look to be the same
11 e-mail addresses as on your other application.
12 This is your personal e-mail and your friend,
13 whose name you don't remember?
14 A. That's correct.
15 Q. This is the mark you were applying for here?
16 A. That's correct.
17 Q. Can you tell me what this is?
18 A. A website.
19 Q. A website for what?
20 A. For the same business I'm doing, charter.
21 Q. This website's still alive?
22 A. Correct. Yes.
23 Q. And this is a picture of a plane that you
24 charter?
25 A. That's correct.

1 Q. Do you charter jets?
 2 A. No.
 3 (Petitioner's Exhibit 16 was marked for
 4 identification.)
 5 BY MS. DOPPELT:
 6 Q. I'm showing you Exhibit 16.
 7 Have you ever seen this one? And I'll show
 8 you the rest of it. It's a communication from the
 9 patent and trademark office, and it makes reference to
 10 Afaf Air -- the Afaf Air application that you filed in
 11 your name when you lived in Grand Rapids, Michigan?
 12 A. That's correct.
 13 Q. Have you ever seen this?
 14 A. I believe so. Yes.
 15 Q. Do you remember what this document told you
 16 about your application?
 17 A. That you have to prove that you are the
 18 same -- the same owner. Right?
 19 Q. Did you respond to this -- to this
 20 communication from the patent and trademark office?
 21 A. I did not follow up, because I did not have
 22 time to go back. That's why just said, Let it go, we'll
 23 do it next time.
 24 Q. So you abandoned this application. Correct?
 25 A. Yes. I didn't have time to respond back and

1 forth because I have other jobs to do, so I come back
 2 later on. That's all.
 3 Q. Okay. Let me show you what we marked as
 4 Exhibit 18.
 5 A. Sure.
 6 (Petitioner's Exhibit 18 was marked for
 7 identification.)
 8 BY MS. DOPPELT:
 9 Q. This is an e-mail. Can you look it over and
 10 tell me if you've ever seen this before.
 11 A. Yes.
 12 Q. When did you see it?
 13 A. I don't remember.
 14 Q. What is this?
 15 A. That's, I believe, you sharing documents with
 16 my lawyer. Right?
 17 Q. Well, I'm asking you.
 18 What is this?
 19 A. A letter, no? Evidence of something --
 20 evidence that you're sending to my lawyer what is --
 21 what you have done, when you get your logo -- when
 22 you're issued the logo and stuff like that. Right? Is
 23 that what that means?
 24 Q. Well, what did you understand that it meant,
 25 when you saw this?

1 A. You sent my lawyer proof of your client
 2 claiming that he has his logo.
 3 Is that what that means?
 4 Q. Well, when you saw this letter, you saw that
 5 it said -- I -- this is from me, and it -- I'm telling
 6 your lawyer that I promise to send documentary proof
 7 that our client used the mark well before you did.
 8 Do you see that?
 9 A. Okay. Yeah.
 10 Q. And then I said, If you have any proof that
 11 you -- you used this mark before our client, please send
 12 it to me immediately.
 13 See that?
 14 A. Which -- which -- which we did send it to you
 15 immediately.
 16 Q. Okay. Well, I disagree with that, but okay.
 17 So, Mr. Afaf, you see when this letter was
 18 sent to your lawyer: Thursday, January 23, 2020?
 19 A. Okay.
 20 Q. Okay. And you see that there's an attachment?
 21 You can't see the attachment.
 22 But you see there is an attachment?
 23 A. Okay.
 24 Q. And the letter refers to documents that I'm
 25 attaching that are stamped with numbers from one to 104.

1 A. Okay.
 2 Q. Do you see that?
 3 A. I do.
 4 Q. It says Bates stamped?
 5 A. Yes.
 6 Q. Did you look at those documents?
 7 A. I believe.
 8 Q. Okay. And what did you do after you saw this
 9 letter?
 10 A. Answered your letter of giving us back
 11 evidence, so I prepared evidence for you to see. And I
 12 gave it to my lawyer, and the lawyer took it from there.
 13 Q. Okay. So all this time you've been talking
 14 about this evidence that you provided after you received
 15 this letter from me -- after your lawyer received this
 16 letter from me of January 23rd. Correct?
 17 A. Okay. What was the question?
 18 Q. After you saw this letter from me to your
 19 lawyer that's dated January 23rd, you did what?
 20 A. So they must have asked my lawyer to give you
 21 evidence. My lawyer would normally call me and say,
 22 Hey, give me evidence. I packed them together and gave
 23 it to him, and he sent it to you.
 24 (Petitioner's Exhibit 22 was marked for
 25 identification.)

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1 BY MS. DOPPELT:
2 Q. Okay. Let me show you what we've marked as
3 Exhibit 22.
4 A. Okay.
5 Q. Exhibit 22 is several pages, and we're going
6 to go through them. So at the top, it says January 26,
7 2020.
8 A. Which is three days after you asked --
9 Q. Is that when this document was prepared? I'm
10 sorry.
11 A. Because in your letter it says immediately.
12 Immediately we didn't -- it was impossible to send
13 immediately, so three days later you got evidence, which
14 is 64 pages that will take time to get them together,
15 since I have other jobs to do. So it only took three
16 days lapse before you get, you know, proof back to you.
17 Q. Did you send me this proof?
18 A. My -- I believe my lawyer sent it to you.
19 Q. Do you know when?
20 A. January 26, 2020.
21 That's what it is. Right?
22 Q. No. That's the date you put on here. That's
23 not the date that I received it.
24 A. All right. I don't know.
25 Q. Okay. You put this date on here. Correct?

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1 A. Correct.
2 Q. And this document which is multiple pages --
3 did you put this document together?
4 A. Correct.
5 Q. Let me ask you a couple things.
6 A. Okay.
7 Q. This is your signature block right here?
8 A. That's correct.
9 Q. And it says, FAA-certified flight instructor,
10 and then it gives several abbreviations.
11 A. Correct.
12 Q. What do those refer to?
13 A. CFIA certified flight instructor airplane.
14 CFII is certified flight instructor instrument. MEI is
15 multi-engine instructor. AGI is ground instructor, and
16 other one is advanced ground instructor.
17 Q. And somewhere there's a -- there's a website
18 where I can see when you received these certifications?
19 A. Yes. You go to faa.gov. You look for
20 evidence certificate, and take my last name and you will
21 see everything they have up there.
22 Q. What was the first one of these you received?
23 A. CFI instructor airplane.
24 Q. Okay. So it's in chronological order after
25 your name?

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1 A. That's correct.
2 Q. Okay. And the address given here is in
3 Farmingdale, New York.
4 Is that the airport address?
5 A. That's correct. That's where we operate from.
6 Yes.
7 Q. And why did you write this letter?
8 A. Because you asked for it.
9 Q. When I asked for -- when I wrote to your
10 lawyer and said, Provide me with proof that you used
11 this mark before our client and I attached 104 pages,
12 this is your counter proof? Is that what you're saying?
13 A. I have 64 pages. I don't have the 104 pages,
14 but I did 64 pages.
15 Q. Okay. Okay.
16 In Exhibit 22, this is you writing. Correct?
17 You prepared this document; is that accurate?
18 A. Correct.
19 Q. Okay. You wrote that you designed the logo
20 with the help of the agency USTV Repair?
21 A. Correct.
22 Q. What is that?
23 A. That's the -- they just did websites, fixed
24 TVs, fixed logos, whatever you want; so...
25 Q. It's not a TV repair business?

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1 A. It's his main business, but he does all -- all
2 kind of stuff. You can find hoster and server, so you
3 can check all his things in his website -- their
4 website.
5 Q. Who is he?
6 A. I think if you scroll down, you'll find out
7 the letter from him that he is stating that he did the
8 logo for me -- put it together for me.
9 Q. Okay. So you say you designed the logo with
10 the help of the agency USTV Repair.
11 How did you and USTV Repair come together?
12 A. Correct. So I designed it. I -- I draw it.
13 I get it together. I -- I do -- and as you're going to
14 see if you scroll down.
15 Then, obviously, to put a digital like that,
16 you need to use a -- you have to use kind of -- some
17 kind of program to put it together like that, as a
18 picture, right, so it's neat and -- and looking good?
19 So since he has a program -- I don't have these
20 programs, and I don't want to pay for them. So he get
21 it -- he get it for me precise like that, the way --
22 like -- you know, like using Illustrator or Photoshop or
23 whatever program you use.
24 Q. Okay. So in this same exhibit, on the next
25 page, it talks about -- you wrote history of the logo.

1 This is still you writing. Correct?
 2 A. That's not just the logo. That's my
 3 background talking, because I didn't have -- the design
 4 that -- I have a graphic design degree that helped me
 5 out to draw and design my logo. And then -- then with
 6 the aviation background, I designed it myself. And I
 7 get it together myself and with the help of the agency,
 8 they -- they assembled it for me together.
 9 Q. Where is Ecole Supérieure des Arts Visuels?
 10 Where is that?
 11 A. That's in Michigan. That's the agency that
 12 made my last website. Same domain. Just we lost -- we
 13 lost the website before. Been hacked, so they had to
 14 redo it for us. And that's the agency that do it, the
 15 lo -- website.
 16 Q. I'm sorry. It said you have a graphic design
 17 degree from Ecole Supérieure des Arts Visuels.
 18 Where is that?
 19 A. That's a French -- Ecole Supérieure des Arts
 20 Visuels. That's a -- that's a French --
 21 Q. I'm sorry. I didn't hear you.
 22 A. It's called Ecole Supérieure des Arts Visuels.
 23 That's -- that's a French school overseas.
 24 Q. Where is it?
 25 A. That's in Morocco.

1 Q. Where in Morocco?
 2 A. Marrakech.
 3 Q. Do you have -- and you have a degree from
 4 there?
 5 A. That's correct.
 6 Q. Okay. So then under History of the Logo, you
 7 say -- you described your idea to Mr. Hopton, the owner
 8 of the agency.
 9 A. Correct.
 10 Q. So the agency you're talking about is the
 11 thing called USTV Repair?
 12 A. That's correct.
 13 Q. And is Mr. Hopton the person you dealt with
 14 there?
 15 A. Yes. I did it online. I -- I probably put --
 16 put his contact on there. That's correct.
 17 Q. And how did you -- how did you meet them? How
 18 did you choose them?
 19 A. I meet them at the airport. He used to fly
 20 the airport, too, long -- long time ago.
 21 Q. When you say you described the idea to him,
 22 what did you tell him?
 23 A. Well, if you go down, you'll see the picture.
 24 There's how I draw it when I drew it, and I described
 25 how I wanted it to be done exactly on the computer. So

1 he just scanned stuff and drew it over, whatever I gave
 2 him, and put it look precise instead of using a hand
 3 drawing.
 4 Q. And the logo that ultimately became the logo
 5 that's at issue in this case is not something you
 6 actually drew?
 7 MR. WENGROVSKY: Objection.
 8 THE WITNESS: No, that's actually not true.
 9 It's the same one I drew.
 10 BY MS. DOPPELT:
 11 Q. Okay. And are you saying it was created on a
 12 computer?
 13 A. Well, obviously, you can't have a logo just by
 14 hand. It's not going to look good, so you have to draw
 15 it and see how it looks like. Then you put it in the
 16 computer.
 17 Q. At the end of your paragraph on the history of
 18 the logo, you talk about how your website was hacked.
 19 Was that the website that we saw that you used
 20 in your trademark application?
 21 A. I think that's the second one. There's
 22 another one before that that was a long time ago that's
 23 been gone, and that was the second one that you showed
 24 me. And the third one, now, is the one that is valid
 25 right now. You can see -- you can look at it online if

1 you Google it.
 2 Q. And that was the one designed by Sunny at
 3 designsmithagency.com?
 4 A. That's the last one right now. That is alive.
 5 That's the one designed by Sunny and
 6 designsmithagency.com.
 7 Q. Okay.
 8 A. That's the last -- that's the last --
 9 Q. Can you tell me what this is?
 10 A. That's the letter -- because you're asking for
 11 proof -- that's the letter from the CEO of the company
 12 stating that he -- they did the logo and they put it in
 13 March of 2013, that I -- that I deal with them and I
 14 paid them and I get my -- they get the logo together for
 15 me on the computer.
 16 Q. What did you pay for that?
 17 A. I don't recall.
 18 Q. Did you pay?
 19 A. Multiple payments. Of course I paid.
 20 Q. Do you have records of what you paid?
 21 A. Not with me right now.
 22 Q. Do you have them?
 23 A. I might have to look for them.
 24 Q. Do you know how much it cost?
 25 A. Like I said, I don't know. Each time we

1 modify something, we have to pay; so I don't know
 2 exactly how much.
 3 Q. How did you get this letter?
 4 A. You call the person, tell them, Hey, somebody
 5 stole my logo. I need proof that you did it for me.
 6 And then they will send it to you.
 7 Q. You called Mr. Gabidon (ph)?
 8 A. That's correct.
 9 Q. Did you speak with him on the telephone?
 10 A. That's correct.
 11 Q. Did you exchange e-mail before this letter?
 12 A. I don't think so.
 13 Q. What did you tell Mr. Gabidon?
 14 A. I don't re -- I don't recall the conversation,
 15 but I recall that we spoke.
 16 Q. What did you tell him you needed?
 17 A. Somebody stole my logo.
 18 Q. And what did you ask him to do?
 19 A. Send me a letter, that I -- please send me a
 20 letter showing that you guys did the logo for me. And
 21 that's how it work right there.
 22 Q. Did you write this letter?
 23 A. Is that an accusation?
 24 Q. I'm just asking the question. You can answer
 25 whatever the truthful answer is.

1 A. The truthful answer is no. You have his phone
 2 number. You can call him.
 3 Q. We'll be taking his deposition next month.
 4 A. Sure.
 5 Q. Do you know what the January 20, 2020, date
 6 refers to on his letter?
 7 A. Which one?
 8 Q. The date on his letter says January 20, 2020.
 9 MR. WENGROVSKY: You're asking what the
 10 letter's date refers to?
 11 MS. DOPPELT: Correct.
 12 MR. WENGROVSKY: Okay.
 13 THE WITNESS: That's when the -- that's when
 14 the guy sent the letter.
 15 Didn't you say you wanted -- you want -- what
 16 it's called? You wanted proof, so we have to send
 17 proof. So the guy had to write a letter about when
 18 he -- when he wrote it, so that's the date when he
 19 wrote it for me.
 20 BY MS. DOPPELT:
 21 Q. Did you tell Mr. Gabidon, when you spoke with
 22 him on the phone, that you came in there to see him in
 23 March of 2013?
 24 A. March of 2013 -- I don't recall. That's --
 25 that's like -- talking about seven years or -- seven

1 years now, or something. No, I don't recall none of
 2 that.
 3 I mean, of course he was at the airport, so we
 4 seen each other at the airport. He was flying there and
 5 was a student. I was a student. I was also a business.
 6 So I don't recall all -- how -- how we get --
 7 get things going on, because he's -- he is out there all
 8 the time, and I'm there all the time.
 9 Q. Okay. Mr. Afaf, what I'm asking you is when
 10 you spoke with Mr. Gabidon on the telephone -- and that
 11 was in January of this year. Correct?
 12 A. Correct. Correct.
 13 Q. Did you tell him -- did you remind him that
 14 you came to see him in March of 2013?
 15 A. We -- we -- I don't recall the conversation.
 16 Just, Hey, we have a situation right here. I want proof
 17 from all you guys and all witnesses. So whatever he
 18 come up with is his discretion. I don't recall asking
 19 him any other things besides I need witnesses.
 20 Q. From the time you first met with him until
 21 January of this year, did you have any contact with
 22 Mr. Gabidon?
 23 A. We met out at the airport, because I run a
 24 flight school. So people come -- tend to come to me and
 25 fly and friends and everything. So in the airport, I

1 see people around all the time.
 2 Q. Do you see Mr. Gabidon?
 3 A. I saw him many times, yes.
 4 Q. Did you give him flight lessons?
 5 A. I don't recall.
 6 Q. Do you know how he would know that you've been
 7 using the same logo for several years?
 8 A. Because it was only one logo since I start
 9 business or -- for every business that's the only logo I
 10 had.
 11 Q. Do you know if he looked at your website
 12 often?
 13 A. I never asked that question, if he looked at
 14 my website. But he's the one who done the website in
 15 the beginning when I -- even when I started teaching,
 16 he's -- he's the one who alters the website when I was
 17 con -- con -- doing consultation for people before I
 18 even made -- I graduate from college.
 19 Q. How many times have you seen Mr. Gabidon over
 20 the years?
 21 A. I don't recall.
 22 Q. Is he a friend of yours?
 23 A. Not -- not -- not a close friend, no.
 24 Everybody flying was a friend. Everybody say hi; say hi
 25 back.

1 Q. Is he a -- is he a student of yours?
 2 A. No.
 3 Q. Does he fly?
 4 A. I don't know.
 5 Q. Do you know who at the airport told you to --
 6 or suggested him to you?
 7 A. I don't know.
 8 MR. WENGROVSKY: Objection. There's no
 9 foundation for that.
 10 BY MS. DOPPELT:
 11 Q. I thought you said, Mr. Afaf, that somebody
 12 suggested him.
 13 Did I get that wrong?
 14 A. I never said that.
 15 Q. I'm sorry.
 16 How did you -- how did you find him?
 17 A. I'm at the airport. People, they come to me
 18 all the time talking about flight and business and stuff
 19 like that. How is that conversation, I have no clue.
 20 We -- we always talk. They say I to rent a
 21 plane, I want a direct flight. I don't know. I want to
 22 go somewhere.
 23 We -- that's how we talk to a lot of different
 24 people, so I don't know how we talked, how we started.
 25 Really no clue, to be honest with you.

1 Q. So you don't remember how you came in contact
 2 with him?
 3 A. Not -- not -- not -- not -- not off the top of
 4 my head. I don't remember exactly how we start. Like,
 5 Hi, how are you? Are you coming to fly? or something.
 6 I don't know, but all I know is I know him.
 7 Q. Did you go to his place of business to do
 8 business with him?
 9 A. I think so.
 10 Q. Do you remember going there?
 11 A. I -- I believe so.
 12 Q. Did you meet him there?
 13 A. I believe so. Of course I'm going to go to
 14 his -- his office and check sometimes.
 15 Q. Do you remember where his office was?
 16 A. No. You could change. Seven years ago. I
 17 don't know. I mean, if I tell you it's an office like
 18 this -- I don't know.
 19 Q. Okay. Okay.
 20 This is the next page of Exhibit 22. Can you
 21 tell me what this is.
 22 A. That's the initial drawing of the logo at the
 23 library when I was in college, with all the people that
 24 were -- that were attending college with me too.
 25 Q. What are these photographs? Who took the

1 photographs?
 2 A. Myself. When I -- when you guys were asking
 3 for proof, I had to take them. Or they were -- some of
 4 them they were taken out there, and they had this
 5 picture a long time ago too.
 6 Q. I'm sorry. I didn't hear you.
 7 A. I took it myself.
 8 Q. And what are they? What's the background?
 9 What are they on?
 10 A. It's a table in a library -- a college
 11 library, I believe. Each time I draw somewhere. I
 12 mean, I don't draw them all in one day. Every day, I do
 13 some here and there. I just draw one to see what next
 14 needs to be improved.
 15 Q. Who drew these?
 16 A. Myself.
 17 Q. Anybody else?
 18 A. No.
 19 Q. And I see -- and I -- I apologize that this is
 20 upside down, but I see handwriting on two of them.
 21 Whose handwriting is that?
 22 A. Myself.
 23 Q. Do you know what this says?
 24 A. If you flip it around. Yeah.
 25 Q. I don't know how to turn it around.

1 Okay. So there are dates on -- there's dates
 2 on two of these pages.
 3 Did you write these dates on here?
 4 A. Yes. Okay. Please look at this idea as well.
 5 So that's what it says: Please look at this idea.
 6 Q. And there's a date and your signature.
 7 A. That's correct. I did.
 8 Q. Did you put this date on here?
 9 A. 03/12/2013.
 10 Q. When did you put this date on here?
 11 A. That day when I draw it.
 12 Q. When was that?
 13 A. Right there: 03012 -- 03/12/2013.
 14 Q. And where did these photographs come from now?
 15 Where were they?
 16 A. What do you mean? I have a phone. I have
 17 pictures from -- from years.
 18 Q. It's in your telephone?
 19 A. Correct.
 20 Q. Is it in your telephone now?
 21 A. Not with me now, but I have a Metro phone,
 22 yeah.
 23 Q. So your current telephone has this photograph
 24 in it?
 25 A. I believe so, yes.

1 Q. And what is this?
 2 A. It's the same drawing. Just exploring
 3 different ideas.
 4 Q. What's this a picture of?
 5 A. That's a plane, Embraer 145. Brazilian plane.
 6 And those are the letters that I played with to see how
 7 the logo going to come out -- the initial ones.
 8 Q. Can you read what the handwriting says at the
 9 bottom of -- at the bottom of the thing in the lower
 10 right?
 11 A. Sure. It just says, I like this one. What --
 12 I like this one. What do you think?
 13 Q. And these are more of the same?
 14 A. Same thing. They're just playing with the
 15 letters and trying to come up with something looks
 16 professional.
 17 Q. And you took pictures of scissors and pencils.
 18 Why did you do that?
 19 A. It's a picture of the table, so I'm just
 20 showing -- showing doing the work. That's -- when I was
 21 at the table, I took a picture off of it. That's all.
 22 It's not relevant, whatever comes out there.
 23 Q. Whose feet are those?
 24 A. It's my feet.
 25 Q. And whose laptop is that?

1 A. My laptop.
 2 Q. And you say you were doing this in a library?
 3 A. That's correct.
 4 Q. At Farmington?
 5 A. Farmingdale, yes. Correct.
 6 Q. Farmingdale. I'm sorry.
 7 And what about these? What are these?
 8 A. Same -- same stuff. Just means moving further
 9 on -- on the logo. Getting it closer and closer and
 10 closer.
 11 Q. Was anybody else there when you were doing
 12 this?
 13 A. Correct.
 14 Q. I'm sorry.
 15 Was anybody else standing there while you were
 16 taking these pictures?
 17 A. It's a library. People comes and go, and some
 18 of them, they have -- also have a letter that they know
 19 me was doing the logo. And I also attached it to this
 20 PDF, yes. I had college mates, and we would go to
 21 college. And we'd go to the library.
 22 And when we're studying together and stuff, I
 23 drew things on my own. And they see what I want to do
 24 in the future and all that stuff. So I was drawing it.
 25 Guys coming in and out all the time, and they saw me

1 doing it.
 2 Q. And what were you cutting out with scissors?
 3 A. This letter that you just saw and that plane
 4 taking off on the page.
 5 Q. And what does this page represent?
 6 A. That's a logo. Playing with the color, and
 7 playing how -- getting them closer or -- or far from
 8 each other distance. And, you know, aviation word is
 9 longer, so we had to, you know, retract it and get
 10 letters FAF closer to each other and something.
 11 Q. Who prepared the two logos shown on this page?
 12 A. The agency. That's computer stuff. We get
 13 them closer and far from each other in the computer.
 14 Q. Do you have a file in your -- do you have a
 15 file that shows all the stuff you looked at in
 16 connection with the creation of this logo?
 17 A. No. Not at this moment. No, I don't.
 18 Q. Where did you find this?
 19 A. I have -- I have them on my -- in my phone.
 20 When -- when we work -- work and stuff, I have in my
 21 phone. All the stuff is saved in my phone.
 22 Q. This is in your phone?
 23 A. That's correct.
 24 Q. And it's not a phone that you have with you
 25 right now?

1 A. That's correct.
 2 Q. Is it a different phone number?
 3 A. That's correct. Can you see? I have many
 4 phones right now, one, two, and the third one is right
 5 here. So -- so I have more phones.
 6 Q. What phone is all this material relating to
 7 your logo -- what phone is that in?
 8 A. Some Chinese phone. I don't know. I mean, I
 9 don't know the model off the top of my head.
 10 Q. No, I don't mean the model.
 11 What phone number is it?
 12 A. Oh, phone number. That -- that one -- the one
 13 that -- I don't think it has a phone number. That's
 14 just -- just stuff that I saved in there.
 15 Q. What's your cell number?
 16 A. 631-855-8678.
 17 Q. Is that the same -- is that the only cell
 18 number you have?
 19 A. No. I have -- I have more -- different. I
 20 have a couple of them.
 21 Q. What's the cell number on the phone that has
 22 the material in it regarding your logo?
 23 A. Does not have a chip. Doesn't -- does not
 24 have a SIM card. It's just a cell phone that has
 25 pictures.

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1 Q. Do you use it currently?
2 A. Not for calling.
3 Q. What do you use it for?
4 A. Pictures.
5 Q. What else is in it besides this?
6 A. Aviation apps, documents, e-mails.
7 Q. You store all this in your cell phone?
8 A. Correct. Because in Georgia, you put a -- you
9 put a -- a SIM card that has 500 gigabyte. You can
10 store a lot of stuff for free without paying.
11 Q. Can you tell me what this is?
12 A. That's a business card to when I published in
13 2015 -- March 16 -- March 16, 2015. That's when I do
14 flight consulting before I become an instructor. I was
15 a student at Farmington college, and I sent them
16 students for Positive Rate -- positive gear up. Right
17 there, that's a logo that I was working with them.
18 Q. Is this a business card?
19 A. That's correct.
20 Q. And this is your name. Right? And then it
21 says flight training consultant.
22 A. That's correct.
23 Q. That means you weren't training people how to
24 fly. Correct?
25 A. That's correct, because I was not an

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1 instructor back then, so I can recruit people to get a
2 free -- free hours, because I was a student back then.
3 I was saying, I was in college. I wasn't even graduate
4 yet. I graduated the end -- end of 2015 is when I --
5 Q. And that's when -- I'm sorry.
6 And that's why you have your e-mail address as
7 your college e-mail?
8 A. That's correct.
9 Q. And what is this? What's the logo that says
10 gear up? What is that for?
11 A. That's a flight school. It's called Positive
12 Gear Up.
13 Q. And that's what you were re -- that's the
14 entity you were recruiting students for. Correct?
15 A. That's correct.
16 Q. This is on your Facebook?
17 A. That's correct.
18 Q. And I'm looking at the previous document we
19 were looking at that shows your business card.
20 This is on your current Facebook account?
21 A. That's correct.
22 Q. So if I look, I could find this on your
23 Facebook account?
24 A. That's correct.
25 Q. Did you pull it off your Facebook page

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1 currently?
2 A. Facebook page, no. That's personal Facebook.
3 It's not a -- that's not a page. It's a Facebook
4 personal account.
5 Q. What does that mean?
6 A. That means -- Facebook page is when you have
7 a -- a business and you have a page for it. Everybody
8 can come in. Right? Personal account is only select
9 people can come in, if I don't -- if I -- if you're not
10 my friend, you won't be able to see anything that I
11 share.
12 Q. So what's the Facebook --
13 A. Back then -- back then --
14 Q. What's the Facebook address for this?
15 A. My name, Mohcine Afaf.
16 Q. But this is a different Facebook than the one
17 I can see?
18 A. So how many Facebooks are out there? It's
19 only one name. It's my name.
20 Q. And if I were to look for it, I wouldn't be
21 able to find this?
22 A. You'd have to be a friend with me first. It's
23 a personal account, so you won't be able to see anything
24 that I share or -- or what might matter unless you're a
25 friend of -- of mine. And then there's a Facebook page

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1 for the business. That's a different story.
2 Q. Do you have another Facebook page for your
3 business?
4 A. I do.
5 Q. What was that -- what's that one called?
6 A. Afaf Aviation. That's a public. Anybody can
7 go there.
8 Q. When did you set up your personal Facebook
9 account?
10 A. Probably 2006, 2007, or '08, something like
11 that. Probably 2008. I'm not sure. Way long from
12 that.
13 Q. And when did you set up Afaf Aviation Facebook
14 account?
15 A. You mean Facebook account. That's when they
16 incorporated business, became formerly -- formerly the
17 airport is a public airport. You're not allowed to
18 advertise unless you have this incorporated and you pay
19 for an airport permit and you have airport insurance.
20 Then you can advertise.
21 So when I was a student, I could not advertise
22 anything because they would fine me. That's illegal.
23 So I did not advertise anything, besides doing business
24 cards and stuff like that. But I couldn't advertise
25 through a Facebook page or put online. like a website or

25 (Pages 94 - 97)

1 something like that, with a certification at least you
2 are a business.
3 So when I graduated in 2015 and finished my
4 flight training in 2016 and become a flight instructor,
5 get training, get experience in 2017, I incorporated my
6 business and it become a business. Then I paid the
7 airport fees, got an airport permanent, airport
8 insurance. Then I'm allowed to put my name in Google
9 and say, customer come to me right now, because I am a
10 business. That's what that means.
11 Q. So what am I looking at right here?
12 A. That's my personal, and when I -- that's my
13 logo. And when I say my new logo, let's -- let's
14 jump -- let's jump start. That's when -- the first time
15 I put it online.
16 Q. And when you say online, are you talking --
17 what online -- where is this?
18 A. So that was my personal Facebook. And back
19 then it was public right there, and it says March 12,
20 2013.
21 Q. And does this mean you -- is this somehow --
22 let's see -- so I can't -- I'm not seeing what we were
23 looking up to get to this. Correct?
24 A. Oh, what -- what -- what -- what it says to
25 me. I'll tell you what it says is that this logo -- I

1 put it on Facebook, and it was in public on 2013 --
2 March 12, 2013, I post it out there. And that's the
3 date on Facebook that had been shared for the first time
4 that they shared it on -- on -- on public record online.
5 Anybody can see it, that I had that logo and I
6 had been using it on Facebook out there. It's been
7 at -- on my business card. And then when I graduated
8 college, finished my training, from student become a
9 flight instructor.
10 And now as a flight instructor, I can do
11 business. That means I can make money and charge people
12 for my flying. Then I incorporate my business in 2017,
13 because I cannot say I would do it -- I can -- I cannot
14 do, like -- I cannot do business as a company when I'm
15 not an instructor.
16 So I was waiting until I become a flight
17 instructor. Then I opened up business at the airport.
18 Q. How did this picture get into Exhibit 22? How
19 did this picture get into the documents that you sent to
20 your lawyer?
21 A. That's the one that -- the logo we used in
22 2013.
23 Q. But how did -- is this -- did you -- how did
24 this picture get in there? Did you make a copy of it?
25 A. You take a picture -- you take a -- I -- I

1 told you I made a PDF, so you're looking from the PDF
2 right now that I made, which means I took pictures and I
3 have to show you proof that I'd been using the logo from
4 2013.
5 THE WITNESS: Would you mind if I take a
6 break, because I have to use the bathroom.
7 MS. DOPPELT: No. That's okay. Sorry. I
8 meant to tell you that if you need to take a break,
9 you should just tell me. I apologize for that.
10 Yes. I have 12:08.
11 What about five minutes? Is that enough?
12 THE WITNESS: That's more than enough.
13 MS. DOPPELT: Okay. I'll see you in five
14 minutes.
15 THE WITNESS: All right. Thanks.
16 MS. DOPPELT: Thank you.
17 THE WITNESS: Thanks.
18 (Off the record.)
19 BY MS. DOPPELT:
20 Q. Okay. So we're on Exhibit 22.
21 And you pointed out it's multiple pages. but
22 it's not 64; so..?
23 Okay. Now, are these -- so on the page we
24 were just looking at --
25 A. Okay.

1 Q. -- there's more writing.
2 Is this your writing?
3 A. That's correct. Which is the same thing that
4 I just explained to you. I just don't know more about
5 that.
6 Q. Okay. So what business did you have between
7 2013 and 2017?
8 A. I was in college. I have some other
9 businesses. And I was doing consulting for a budget
10 rate, which I told you bring customer.
11 I get paid. You get more hours to finish --
12 to finish my training. That's what I was doing it --
13 doing it for.
14 And I was using my logo, and I was doing a
15 business consult, consulting people. Like, you know,
16 explain to them what you do, what they need to become
17 pilots. And when I bring customer, I get rewarded by
18 hours.
19 Q. Okay. I'm looking at the next page,
20 Exhibit 22. Can you tell me what this is.
21 A. That's a letter from Positive Rate. That's
22 the owner, and a letter from him and what I used to do.
23 Q. Okay. And he says, this is his -- this is a
24 letter from Mr. Buchanan sent to whom?
25 A. To me.

1 Q. Why did he send you this letter?
 2 A. Because I'm requesting testimony from
 3 witnesses to say it's a proof and witnesses that see
 4 what I was doing to prove to you that I used the logo
 5 since 2013.
 6 Q. Did you call Mr. Buchanan?
 7 A. Of course I did.
 8 Q. And you spoke to him on the phone?
 9 A. Yes.
 10 Q. To him directly?
 11 A. Yes.
 12 Q. What did you tell him?
 13 A. That I need a letter from him.
 14 Q. What did you tell him needed to be in the
 15 letter?
 16 A. I didn't tell him what to put in it. But I
 17 told him, Send me a letter and use discretion. I need a
 18 letter because my lawyer asking for it for some guy's
 19 lawyer.
 20 And reassure him that I worked with you and
 21 that I was using my logo, because we have disputes or a
 22 fight over a logo. And he write stuff.
 23 Q. Did he send this letter to you?
 24 A. I don't know if he sent it or I picked it up.
 25 Q. I'm sorry. I didn't hear that.

1 A. I don't remember if he sent it or I picked it
 2 up. I believe I picked it up.
 3 Q. Did you write this letter?
 4 A. No.
 5 Q. Did you go to Brooklyn to get it?
 6 A. I believe. That's on my way. I live
 7 in Pennsylvania, so I go to Brooklyn all the time to get
 8 things done.
 9 Q. How often do you see Mr. Buchanan?
 10 A. Not -- not often but once in a while.
 11 Q. Is his flight school at the same airport where
 12 your business is?
 13 A. That's correct.
 14 Q. So is it the same place where you are now?
 15 A. No. Actually, shut down. They have --
 16 unfortunately they have an accident and they close for
 17 now.
 18 Q. When did that happen?
 19 A. I think two years ago, something. I don't
 20 remember the dates, but somewhere like that.
 21 Q. So at the moment, there is no such thing as
 22 Positive Rate Gear Up flight school?
 23 A. That's correct.
 24 Q. Do you know what Mr. Buchanan is doing now?
 25 A. Working for the airlines.

1 Q. What airlines?
 2 A. Private. I'm not sure if I should -- can
 3 discuss that with you. It's his personal stuff.
 4 Q. Well, I'm going to take his deposition and ask
 5 him himself; so...
 6 A. I mean -- I mean, if he gives you consent, you
 7 can ask him. His phone number right there -- you know,
 8 right there. I'm not allowed to answer for him, but I
 9 know he's an airline pilot; but...
 10 Q. Did you remind him of the March 2013 date when
 11 you spoke to him?
 12 A. No.
 13 Q. He just came up with that myself?
 14 A. March date, no, because I -- they all know
 15 when I spoke -- when this logo -- when I came happy
 16 about it, and I was showing it to everybody and get my
 17 logo and get it done and got my business card; so
 18 everybody knows. That was my happy days, when I get the
 19 logo and start doing business officially with him as a
 20 flight con -- consultant.
 21 Q. He said you cleaned and maintained airplanes
 22 for him; is that correct?
 23 A. That's correct, yes. Plane down -- when the
 24 plane down, you put gas in it, you clean it, you put up
 25 all that stuff.

1 Q. Then he says you became a full-time flight
 2 instructor at his flight school.
 3 What years were those? When was that?
 4 A. That's what -- that -- probably 2016 -- or
 5 early 2017, whatever it says.
 6 Q. It just says two years.
 7 A. I got my -- well, after I got flight
 8 instructor, so pretty much I worked for everyone very
 9 much freelancing. And, you know, I don't know if
 10 you know freelancing and how it works, but, you know,
 11 you use it for somebody or somebody else needs a ride or
 12 somebody on the plane and you jump in his plane and you
 13 show them how to fly the plane. All of it's in the
 14 books, so I can look it up.
 15 Q. Were you a full-time employee such that taxes
 16 were deducted from your salary?
 17 A. No. What we do is -- flight instructor, most
 18 of the -- most of the time you get cash, because it's
 19 not enough -- enough money, because we don't work every
 20 day. If it's windy, windy, we don't work, so you got
 21 to -- you got to have -- you have to take -- take a job
 22 or something. It's not like a job in an office for
 23 eight hours.
 24 You know, I work two hours and -- we may not
 25 even work, because of windy, windy, snowy, or something

1 like that.
 2 Q. Did you get paid?
 3 A. Of course I did. I mean, when I get my
 4 instructor license, yes, I get paid.
 5 Q. What were you paid?
 6 A. Every client is different. Depends on the
 7 client, and depend if they come back. Everybody --
 8 everybody has a different price.
 9 Q. Do you have records of the payments you
 10 received for this job?
 11 A. Mostly cash.
 12 Q. Did you get a 1099?
 13 A. No.
 14 Q. Mr. Buchanan's letter goes on to say that
 15 early in 2017, you incorporated your flight school with
 16 the State of New York.
 17 Do you know -- did you mention that to him
 18 when you spoke with him?
 19 A. I was in his office, because I -- I don't have
 20 money back then to have my own office. So I used to
 21 maintain cash for him, bring students to him or stuff.
 22 So in turn he helped me out to let me meet the customers
 23 that I got on my own to his office, until I -- until I
 24 stood up on my feet. So I used his office to meet my
 25 client or teach my client ground lessons in his office,

1 because I take care of his stuff. So he is aware of
 2 what I do.
 3 Q. Do you know where the logo that's in this
 4 letter came from?
 5 A. They all have it, so they all have my logo.
 6 My logo's everywhere: Facebook, everywhere.
 7 Q. I'm sorry. I didn't understand you.
 8 A. I do not know, but my logo is everywhere. If
 9 you just Googled it, you'll find it on Google.
 10 Q. And can you tell me what this is?
 11 A. Same as previous answer.
 12 Q. It's the same thing that we looked at before?
 13 It's just it was on another page, and that's why it's
 14 here.
 15 A. It's just making it bigger so you can see it
 16 clear.
 17 Q. Do you know where this came from?
 18 A. I don't know. It was -- it was -- it was
 19 posted on Facebook, so probably the same pictures,
 20 you know, being zoomed in.
 21 Q. Can you tell me what this is.
 22 A. That's a letter. I used to work for him.
 23 That is proof.
 24 Q. How did you get this letter?
 25 A. That's a long letter. When I -- when I looked

1 for it, I had it. I believe we drove a car somewhere,
 2 and then we got it that day.
 3 Q. When was this letter created?
 4 A. I don't know what year. But that was when I
 5 was a student out there. Those guys -- also they were
 6 students. Probably 2013, 2014. Probably like that.
 7 Q. And what was it for?
 8 A. We were driving a car to pick up a plane for
 9 him -- ferrying a plane, so we had to get a letter from
 10 the company that we are guys on behalf of the company to
 11 ferry the plane.
 12 Q. And why is it in your letter?
 13 A. What do you mean it's my letter?
 14 Q. This is part of the letter you wrote -- this
 15 is in the same exhibit?
 16 A. That's -- that's showing you that I was part
 17 of the organization.
 18 Q. Okay. What am I looking at now?
 19 A. That's a business card that I -- showing that
 20 I worked for that school, because you asked for a 1099
 21 and I don't have a 1099. That's what I was doing.
 22 That's what I was working for.
 23 Q. This is your business card showing you're
 24 working for Positive Rate Gear Up. Correct?
 25 A. Correct, because you were asking for a 1099

1 and I don't have a 1099, because I got paid cash.
 2 That's the proof that I worked for the company.
 3 Q. Is that e-mail address on here your e-mail
 4 address.
 5 A. I have that one still active, yes.
 6 Q. What year was this card in use -- what years?
 7 A. Probably 2016, 2000 -- last 2017, I believe.
 8 Q. '16 and '17?
 9 A. I think so.
 10 Q. Okay. I'm looking at the next page now. This
 11 appears to be a letter from Badreddine Messeleka.
 12 A. Okay.
 13 Q. Who is that?
 14 A. That's a former instructor, a guy who was with
 15 me in college who also saw me drawing -- drawing that --
 16 that logo at the library.
 17 Q. Is he your friend now?
 18 A. Well, we're still in touch. I mean, I have
 19 a lot of friends. All airline pilots, we all talk. We
 20 all talk about stuff, about airlines, what features. We
 21 all get in touch with each other. Of course. Of
 22 course.
 23 Q. And how did you come into possession of this
 24 letter?
 25 A. He sent it to me.

1 Q. Why?
 2 A. Why?
 3 Q. I mean, how did -- how did you get a letter
 4 like this?
 5 A. I have to -- I have to call him to send me a
 6 letter about -- I have an issue with a problem.
 7 Somebody stole my logo, and I need that testimony about
 8 you guys, you know, were with me when I -- when I --
 9 when I used it. And also was working at the airport,
 10 and he also went to college. And if so, what I was
 11 doing.
 12 And I actually have more friends that I can
 13 say. They are just -- they are all down somewhere else,
 14 but I have a lot more. They all saw me doing the same
 15 logo.
 16 Q. And did you -- when you spoke with him, how
 17 long did you speak with him on the phone?
 18 A. I don't recall.
 19 Q. Did you mention the year 2013 when you spoke
 20 with him on the phone?
 21 A. I don't think I -- I don't think I did, but he
 22 was there, actually with me in the library; so he knows.
 23 He saw everything. And I did it. And he saw when I
 24 instruct. We graduated from the same college, so he's
 25 very much been around the whole time.

1 Q. When was the last time you saw Mr. Messeleka?
 2 A. Well, before Corona thing happened. About
 3 three months before Corona. In about seven months,
 4 eight months, nine months.
 5 Q. Did you see him in January of this year?
 6 A. No.
 7 Q. How did you get this letter?
 8 A. I don't know if he dropped it off by the
 9 office, or he sent it. I don't know. I don't remember.
 10 Q. Was there anybody you called who didn't give
 11 you a letter?
 12 A. No. I don't recall.
 13 Q. Did anybody refuse to give you a letter?
 14 A. I don't recall.
 15 Q. Okay. I'm looking at the next letter that is
 16 part of your letter. It's from someone named
 17 Bilal Alsayedi?
 18 A. Okay.
 19 Q. What is this?
 20 A. That also for same company Positive Rate. An
 21 airline pilot that also saw what I was doing.
 22 Q. How do you know this man? Is this a male
 23 name?
 24 A. Yes. I just told you.
 25

1 Q. How do you know Mr. Alsayedi?
 2 A. He is a flight instructor. We worked at the
 3 same place, Positive Rate. He was there, so -- so he
 4 saw everything.
 5 He saw me at the office. I was trying to do
 6 business from Positive Rate's office. He'd been around,
 7 so he watches everything.
 8 Q. Did you go to college with this man too?
 9 A. Well, we were at a different college. I was
 10 in his previous college. I transferred, but we were in
 11 touch all the time.
 12 Q. What college did you transfer from?
 13 A. Vaughn College. It's called Vaughn College.
 14 I transferred to Suny University of -- of New York,
 15 which is Farmingdale State College.
 16 Q. Where did you go before Farmingdale?
 17 A. Vaughn College.
 18 Q. I'm sorry. I didn't hear it.
 19 A. Vaughn College.
 20 Q. Oh, Vaughn.
 21 Where is that?
 22 A. Queens, New York.
 23 Q. Is that where you went to school with
 24 Mr. Alsayedi?
 25 A. Correct.

1 Q. And what did you tell Mr. Aisayedi when
 2 you -- when you called him?
 3 A. Somebody stole my logo and I need witnesses.
 4 Q. What did you ask him to do?
 5 A. Write me a letter.
 6 Q. Did you give him any material so that he could
 7 write your letter?
 8 A. No. No. He knows. He was there. He was
 9 working with myself there too. He was an instructor
 10 there, so he was -- he knows what I do and what I
 11 advertise, so he -- he -- he's familiar.
 12 Q. Did you give any of these people who wrote
 13 letters for you anything to look at?
 14 A. No.
 15 Q. Did you mention to any of them your claim that
 16 you began using this logo in 2013?
 17 A. No, because they were there.
 18 Q. Did you mention to any of them the year you
 19 formed your company?
 20 A. No. They were there. Because when I put sign
 21 outside on that -- then when I incorporate, they were
 22 there too. And they were saying congratulations. They
 23 were there.
 24 Q. What sign are you talking about?
 25 A. Well, when -- when you open up business and

1 first time advertise and you put a sign on the window,
 2 people say congrats for opening a new business.
 3 Q. And they knew the month that you filed your
 4 corporate papers with the State of New York?
 5 MR. WENGROVSKY: Objection. I don't see a
 6 month listed there. I just see 2017 towards the
 7 bottom.
 8 BY MS. DOPPELT:
 9 Q. How did he know when you incorporated?
 10 A. Because I talk. I say --
 11 Q. Do you have a sign in front of your business
 12 now?
 13 A. Here's my T-shirt right here. Yes, I do.
 14 There's a sign outside in the window, on the door,
 15 everywhere -- on the car, in the plane, everywhere.
 16 Q. There's a sign on a building is what I'm
 17 asking you?
 18 A. Yes, it is.
 19 Q. In the building that you're sitting in at the
 20 airport?
 21 A. Yes, there is.
 22 Q. Is there a sign at the building in Flushing?
 23 A. No.
 24 Q. Okay. This is the next page in your letter.
 25 It's another letter from somebody named William Daza

1 Parra of Davenport, Florida.
 2 Who is this?
 3 A. A former instructor at the airport who knows
 4 me for many years, and he's an airline pilot too.
 5 Q. When did you last see Mr. Parra?
 6 A. About a year ago or so, if I recall correctly.
 7 Q. Why did you see him a year ago?
 8 A. Because I'm -- because I'm busy. I don't hang
 9 out with people all the time.
 10 Q. Were you in Florida when you saw him?
 11 A. I don't recall. I'm an airline pilot. I'm at
 12 all over airports which some in Chicago, Florida,
 13 Orlando, California.
 14 Whenever I land I says, Hey, guys, who's
 15 there? because we have an appreciation day for every
 16 year. Call me, hang out, go have some food. So if
 17 there's somebody at the airport, they come and hang out.
 18 So each time go to some airport and you have a layover
 19 for two hours, three hours, a friend will call me and we
 20 spend time, so each time a different day -- every day is
 21 a different story.
 22 Q. All these people who say they were formally
 23 instructors based at Republic Airport, none of them are
 24 instructors there now; is that correct?
 25 A. The airline pilots right now, when they --

1 when they have their free time, they go instruct a
 2 couple hours here and there. But they have -- now --
 3 now they're -- now they have experience. They move on
 4 with their lives.
 5 Most likely they're an airline pilot. So
 6 airline pilots fly passengers; they fly cargo.
 7 Everybody different.
 8 And when they have free time -- when they went
 9 to Chicago or whatever, they go instruct here and there.
 10 But they're -- now it isn't -- they're not -- it's not
 11 their main income right now.
 12 Q. And how did this letter come to you?
 13 A. Talking and then sent to me.
 14 Q. It was e-mailed to you?
 15 A. I believe so.
 16 Q. Okay. This is also part of Exhibit 22,
 17 another letter.
 18 What is this one?
 19 A. It's also other witness that was an instructor
 20 at Republic Airport. He's also an instructor and
 21 airline pilot. Before -- before becoming an airline
 22 pilot, he's an instructor, so -- was also at the
 23 airport.
 24 Q. How does he know anything about your logo?
 25 A. Because he was there at the airport. The

1 airport is big. The Republic Airport's in Farmingdale,
 2 New York. They have a thousand people a day. They have
 3 over ten schools. Before they are -- they walk around
 4 between schools, and they know each other. We all know
 5 each other. It's a small world.
 6 Q. When was the last time you saw Mr. Suh?
 7 A. Probably a couple months from now. I mean,
 8 everybody met before Corona. When Corona starts,
 9 everybody stays at home, so I don't recall what date
 10 exactly.
 11 Q. Everybody you -- I'm sorry -- everybody you
 12 met, what?
 13 A. I said before -- I met -- I met a lot of
 14 people before Corona.
 15 Q. Oh.
 16 A. I don't know what they're going to do. But
 17 after Corona starts, nobody came. Everybody stay at
 18 home, including myself.
 19 Q. Did you ever visit Mr. Suh in California?
 20 A. Yes, I did.
 21 Q. And that was a few months ago?
 22 A. Yeah. Way -- way before Corona, yes. We met
 23 at conference.
 24 Q. What conference?
 25 A. A pilot -- a pilot association.

1 Q. What's it called?
 2 A. I don't recall, I think it's a gay pilot
 3 association, something like that. It's a -- for a job
 4 fair, so, like, it's just a -- it's a name called like
 5 that. Like it's for pilots or AU pilots, so everybody
 6 goes there to see the latest technology and met new jobs
 7 and stuff. It's a normal organization.
 8 Q. Okay. This page is the last page I have in
 9 the document that I understood you prepared.
 10 A. Let me go look and check my side. No.
 11 There's more.
 12 Q. There are more pages that you provided to me,
 13 but this is the last page I have in this document of any
 14 writing of yours.
 15 This is your writing. Correct?
 16 A. Correct, correct. Yes.
 17 Q. Okay. And this is a picture of your -- of
 18 your trademark registration. Correct?
 19 A. That's correct. That I received from the
 20 government, yes.
 21 Q. Okay. Mr. Afaf, I'm showing you Exhibit 23.
 22 Do you know what this is?
 23 A. Yes.
 24 (Petitioner's Exhibit 23 was marked for
 25 identification.)

1 BY MS. DOPPELT:
 2 Q. What is it?
 3 A. We I just did the business. When I filed it
 4 with the State of New York.
 5 Q. Are you the one that filed this?
 6 A. Yes. With the help -- with the guy's help on
 7 the computer, yes -- together.
 8 Q. People at your college?
 9 A. Correct.
 10 Q. Apart from this document that I downloaded
 11 from the New York State corporate -- division of
 12 corporations department of state, do you have any other
 13 documents that have to do with your LLC?
 14 A. So whatever I filed with the State plus the
 15 E -- EI num -- EI -- EIN number.
 16 Q. What is that?
 17 A. Things that you file with your taxes when you
 18 pay taxes.
 19 Q. Does Afaf Aviation LLC pay taxes?
 20 A. Of course.
 21 Q. Have you filed tax returns for 2017, 2018,
 22 2019?
 23 A. Yes.
 24 Q. Did you make a profit in those three years?
 25 A. Yes.

1 Q. Giving flying lessons?
 2 A. Correct.
 3 Q. So the air charter business is not part of
 4 this. Correct?
 5 A. No. It's a different business, different
 6 name, different staff.
 7 Q. Okay. Okay.
 8 Mr. Afaf, there's a whole bunch of other pages
 9 here, which I believe show downloads from your Facebook
 10 page -- it's pretty much what it looks like to me -- and
 11 photographs of your -- photographs from your Facebook
 12 page and perhaps your advertising.
 13 Is that the rest of the documents that you
 14 provided when you -- when you were trying to respond to
 15 the document production request?
 16 A. Correct. It's only the logo you use,
 17 Facebook, YouTube, Twitter. All of the social media.
 18 (Petitioner's Exhibit 24 was marked for
 19 identification.)
 20 BY MS. DOPPELT:
 21 Q. So what is this?
 22 A. That's my -- my current website.
 23 Q. This is your current website?
 24 A. That's correct.
 25 Q. Okay. And this is the -- this is the third

1 page of Exhibit 24.
 2 What is this?
 3 A. That's -- we have a deal going on with Groupon
 4 corporation.
 5 Q. A deal for what?
 6 A. People, they -- when you, like, have a salon
 7 or something and you go Groupon or purchase something
 8 from Groupon, and they give you a discount at the salon
 9 for half price. So you do the same thing with us: You
 10 go to Groupon. You purchase something. Because Groupon
 11 is a big corporation, they have a big database. So you
 12 buy through them, and you come to us and we'll fly you.
 13 And we did it with Groupon for payments.
 14 Q. What's it for?
 15 A. Flying.
 16 Q. Flying lessons?
 17 A. It says introductory of flight lessons, so
 18 first-time flying. And if you buy it through Groupon,
 19 you can come to us. We'll fly you.
 20 Q. Did your company own aircraft?
 21 A. We lease back.
 22 Q. You lease aircraft?
 23 A. Correct.
 24 Q. How many airplanes do you lease?
 25 A. Depends on -- depends on the season or market.

1 Ten, five, six, four. It really depends.
 2 Q. Has there ever been more than ten?
 3 A. Yes.
 4 Q. How many is the most you leased.
 5 A. Oh, it depends. Like, 11, 12. I -- I don't
 6 know. I don't recall. So if it's a season that's full,
 7 we get more. If not, then we return them back to their
 8 owner.
 9 Q. Who do you lease them from?
 10 A. Different individuals. Owners that they
 11 have -- that they own and they lease them for profit.
 12 Q. Have you ever leased a jet?
 13 A. No.
 14 Q. I'm just going to go through this so you can
 15 look at it and confirm that these are the documents that
 16 you provided to your counsel to give to me to show your
 17 use of your mark?
 18 A. That's one of them.
 19 Q. Okay. So this is the fourth page. This is
 20 the fourth page.
 21 What is this?
 22 A. So this one is also on Twitter,
 23 Q. Okay. This is Twitter?
 24 A. Correct.
 25 Q. Okay. This is still Twitter?

1 A. Correct. Yes.
 2 Q. And this is YouTube?
 3 A. Correct.
 4 Q. What do you have on YouTube?
 5 A. Channel.
 6 Q. For Afaf Aviation?
 7 A. That's correct.
 8 Q. What's on your channel?
 9 A. Showing people how to fly planes, fly over
 10 Manhattan, do the Hudson tour, and stuff like that, so
 11 we can get more clients. And show them a CV and all
 12 that stuff.
 13 Q. Okay. And here is more of your YouTube
 14 channel. Correct?
 15 A. Videos. Correct. Yes.
 16 Q. Now, what am I looking at? Your Facebook
 17 page?
 18 A. That's a business Facebook page, yes.
 19 Q. It's your business Facebook page.
 20 And this is also your business Facebook page?
 21 A. That's correct.
 22 Q. More of your business Facebook page?
 23 A. Interviews from people, correct. Yes.
 24 Q. More?
 25 A. Correct.

1 Q. Okay. More of your Facebook page.
 2 This is your -- a different Facebook page.
 3 Correct?
 4 A. No, the same one. Just my personal showing up
 5 with business. Like somebody shows something, and you
 6 show it again. Put it some -- somewhere else. That's
 7 what it is.
 8 Q. Okay. And this shows a dog sitting on a shirt
 9 with the logo on it that we're talking about.
 10 And the photograph -- or the posting was
 11 October 29, 2017. Correct?
 12 A. That's a new uniform.
 13 Q. It's a new uniform?
 14 A. That's correct, with the same color with the
 15 dog, so it looks beautiful. Gold -- gold color.
 16 Q. Is that your dog?
 17 A. It's one of my client's dog.
 18 Q. Okay. And, again, this is your personal
 19 Facebook page?
 20 A. That's correct.
 21 Q. And more of your personal Facebook page?
 22 A. Yeah. That's the one in 2017, because I'm
 23 trying to get to my personal, because I think back then
 24 I have not a business page yet. So most the stuff I
 25 show on my personal, because I have at least 4,000

1 friends. So I get more cli -- more business from my
 2 personal than the business.
 3 Q. Okay. Does it say on your Facebook page:
 4 Follow us on Instagram?
 5 A. Follow us on Instagram? What do you mean?
 6 Follow us -- I don't understand.
 7 Q. Well, right here on this same physical page,
 8 it says, Follow us on Instagram.
 9 A. Oh, no.
 10 Q. Where does that come from?
 11 A. It's just a different -- different picture.
 12 When you take a picture, it says that.
 13 Q. Okay. That's not on your Facebook page?
 14 A. No, I don't think so.
 15 Q. Okay.
 16 A. I really don't. I don't know.
 17 Q. And conveniently enough, the next page is a --
 18 is a page from your Instagram page. Correct?
 19 A. That's correct. Yes. That's correct.
 20 Q. Okay. More Instagram photographs. Correct?
 21 A. That's correct.
 22 Q. More Instagram photographs, so...
 23 A. I'm just showing you a logo on the car, too,
 24 can use, and all that stuff. Magnet hooks to the car.
 25 Q. Okay. This is more Instagram stuff.

1 Is this a photograph of you?
 2 A. With -- me with a couple of friends at the
 3 office.
 4 Q. Are they employees of Afaf Aviation?
 5 A. No.
 6 Q. What is this picture showing in an airplane?
 7 A. That is because -- you can't see it properly.
 8 I'm just flying with a student. He happened to be --
 9 because when you screenshot, you cannot cut it. It's
 10 just come, like, a one page.
 11 Q. Okay. And is this more Instagram photographs?
 12 A. That's correct.
 13 Q. More Instagram photographs, more Instagram
 14 photographs.
 15 A. That's just -- that's just the one of the dog
 16 on the uniform.
 17 Q. It's that same dog again sitting on your
 18 uniform. Correct?
 19 A. Yeah. Just one picture showing that the logo
 20 was being used.
 21 Q. Okay. More Instagram.
 22 This is all from 2017, according to the date
 23 that I can see on this page. Correct?
 24 A. That's correct. When we -- I incorporate the
 25 business, then I'm -- I am able to go ahead already on

1 advertisement, because I can with the airport. I am
 2 able to advertise, so that's why I want all the photo.
 3 That's, again, the logo on the shirts.
 4 That's the customer I fly with in 2000 --
 5 2017, I believe. Yes, it is. Most of it.
 6 Q. Okay. I'm still looking at Instagram. Okay.
 7 Now I'm looking at something that does not say
 8 Instagram.
 9 What is this?
 10 A. It's still Instagram. It didn't stay on top,
 11 but it's still -- it's showing different instructor with
 12 uniform. Employees in the same uniform. But that -- it
 13 is Instagram.
 14 Q. Okay. And this next page is also Instagram?
 15 A. Yes.
 16 Q. I understand that --
 17 A. Yes.
 18 Q. Okay. The next page, what is this?
 19 A. You would have to scroll up, because I can't
 20 see much. That's a page -- I don't know why it keeps
 21 opening itself. It's -- it's a -- it's a -- it's a
 22 Facebook.
 23 Q. This is Facebook?
 24 A. That's correct.
 25 Q. Okay. And this page just shows a house with a

1 car in front of it?
 2 A. No, it's a magnet. No, no. It's showing the
 3 magnet has a logo on the car. So if you see that --
 4 the -- the driver door, it shows the logo, the name of
 5 the business, a phone number, and website.
 6 Q. Okay. Is this Instagram again?
 7 A. Yes. That's the one that -- one of our
 8 instructors wearing Afaf Aviation uniform and taking a
 9 student for a ride.
 10 Q. Do you know why it says Stratford,
 11 Connecticut, on it?
 12 A. Yeah. We go everywhere. Yes, that's correct.
 13 The hangar. Been straight from there, because we go
 14 Connecticut, we go to New Jersey, we're everywhere.
 15 Q. Okay. Is this you teaching a child how to
 16 fly?
 17 A. That's correct. That logo also on the -- on
 18 the -- on my chest, if you see it.
 19 Q. Okay. And this is more Instagram postings?
 20 A. That's a different customer with the logo. We
 21 give him a certificate and a logo also. We made a
 22 uniform.
 23 Q. Okay. And --
 24 A. That one is the same. I don't know why. The
 25 same -- the same. It's just been repeated for some

1 reason.
 2 Q. Is this the office you're sitting in now?
 3 A. No, a different one.
 4 Q. Where is this?
 5 A. I'm in Pennsylvania. That was in Long Island.
 6 Q. This is a picture in Long Island?
 7 A. That's correct.
 8 Q. Did your company used to have an office in
 9 Long Island --
 10 A. Correct.
 11 Q. -- not at the airport?
 12 A. Long Island is a long -- is an island.
 13 Formally there's a town in Long Island. Office is in
 14 airport, and the airport is in Long Island; so that's --
 15 that's the airport.
 16 Q. Okay. Where are you now?
 17 A. That office, it is located inside the airport.
 18 Q. You're in your office in the airport in
 19 Long Island right now. Correct?
 20 A. No. No, I'm not. No. I'm in Pennsylvania at
 21 the airport. Other airport that I have office. And now
 22 I am located in office. Office in airport. Airport's
 23 called Northeast Philadelphia.
 24 Q. In Philadelphia?
 25 A. No. Philadelphia, yes.

1 Q. So you're speaking to me from Philadelphia?
 2 A. That's correct.
 3 Q. In an airport office that you have -- that
 4 your company has in Philadelphia?
 5 A. That's correct.
 6 Q. What's the airport name?
 7 A. Northeast Philadelphia.
 8 Q. Is that an executive airport?
 9 A. Yes.
 10 Q. It's not the regular main international
 11 airport in Philadelphia. Correct?
 12 A. No. That's PHL. This one is PNE.
 13 Q. Okay. Okay.
 14 What's this -- what's this last -- what's this
 15 photograph?
 16 A. Logo being used on a headset.
 17 Q. Is that a sticker that you put on headsets?
 18 A. All our equipment, correct.
 19 Q. Okay. More photographs.
 20 A. Business card.
 21 Q. Is this your current business card?
 22 A. That's correct.
 23 Q. Is this two sides of the same card?
 24 A. What do you mean two sides of the same card?
 25 Q. Well, it's two different cards, or is it two

1 sides and one card? Oh, I'm sorry.
 2 A. Yeah. So it's back and front of the card, two
 3 sides of the card.
 4 Q. Two sides?
 5 A. Front and the back.
 6 Q. So if I asked you for your business card right
 7 now, this is what you'd give me?
 8 A. Yeah. Right -- right now I'm still at the
 9 office. I would give you a business card of the
 10 Philadelphia office.
 11 Q. Okay. And what's this?
 12 A. Same thing. A bunch of them.
 13 Q. What is it?
 14 A. It's just a bunch of -- of business cards.
 15 Q. Okay. Okay. I'm just going to keep looking.
 16 A. The same thing -- what we --
 17 Q. The dog again.
 18 A. For some reason, yeah.
 19 Q. Okay. So all of this is to illustrate your
 20 company's use of this logo; is that correct?
 21 A. That's correct.
 22 Q. Do you know what this is?
 23 A. That's things we give to customers, hand-outs:
 24 pens with logos, stickers, all that stuff. All goodies
 25 that people can think of us and come back next time as a

1 way of advertisement.
 2 Q. So you hand this stuff out to people, and it's
 3 got your logo on it. Correct?
 4 A. That's correct. That is correct. On
 5 T-shirts, on pens, whatever -- whatever -- magnets for
 6 the refrigerator, whatever.
 7 Q. Okay.
 8 A. Just -- you know, just saying that we're
 9 there.
 10 Q. And what is this?
 11 A. Same concept. Stickers.
 12 Q. Oh, stickers, okay.
 13 A. Sorry.
 14 Q. And that's what this is as well, stickers?
 15 A. Yes. Yeah.
 16 Q. Okay. That's the last page I have in this
 17 group of documents that comprise Exhibit 24.
 18 So all of this is material that you provided
 19 to your counsel to show your use of the logo; is that
 20 correct?
 21 A. Yes, ma'am.
 22 Q. Okay. So this, plus the letter you wrote that
 23 has all the other letters in it -- these are all the
 24 documents you provided to your lawyer in response to the
 25 document production request that we sent you; is that

1 right?
 2 A. Yes.
 3 (Petitioner's Exhibit 25 was marked for
 4 identification.)
 5 BY MS. DOPPELT:
 6 Q. Okay. And let me show you Exhibit 25.
 7 Do you know what this is?
 8 A. Let's see. That's Positive Rate Gear I used
 9 to work for -- the website.
 10 Q. So this is the website for positive gear --
 11 A. Yeah.
 12 Q. -- Positive Rate Gear Up?
 13 A. That's better.
 14 Q. But you're telling me this company is not in
 15 business at the moment; is that right?
 16 A. That's correct. The -- the website's still
 17 live, but -- but it's shut down. So if you Google it,
 18 you're going to see the company's shut down,
 19 unfortunately, due to an accident.
 20 Q. Okay.
 21 A. But the website, I think, is still alive.
 22 (Petitioner's Exhibit 26 was marked for
 23 identification.)
 24 BY MS. DOPPELT:

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1 Q. Okay. Mr. Afaf, I'm showing you what I've
2 marked as Exhibit No. 26.
3 A. Okay.
4 Q. Do you recognize what this is?
5 A. That's from -- the photo you are showing me is
6 LinkedIn. That's all. The website.
7 Q. Okay. This a picture of you. Correct?
8 A. That's correct.
9 Q. And this is your LinkedIn page?
10 A. I guess. I don't go there. I just filled
11 there for once and never been there again, so the
12 information may not be correct or accurate.
13 Q. Did you fill in the information on this?
14 A. Yeah, I did. But I just have never updated it
15 since then, so a lot of things may change.
16 Q. So it may be old?
17 A. Yep.
18 Q. Is that what you're saying?
19 A. That's correct. Yes.
20 Q. Okay. Okay.
21 You see where it says about, it says
22 certificated flight instructor, which you are. Correct?
23 A. Yes, I am.
24 Q. And it says commercial pilot, single and
25 multi-engine land; is that correct?

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1 A. That's correct. Yes.
2 Q. Instrument rating. And, alas, it says see
3 more, so I don't know what that says. And then under
4 Experience, can you read that.
5 A. Yeah. I see since 2016 president of --
6 whatever. But that's -- it's not -- it's not accurate,
7 so I'm saying right now. It's been put out there. Most
8 of it's not -- it's not accurate information. It's old
9 stuff. Most of it's just to fill out the blank and be a
10 part of the website.
11 Q. Okay.
12 A. It's not -- it's not a reup thing; so...
13 Q. Okay. So then under Education, it says you
14 went to Farmingdale State College from 2011 to 2015; is
15 that correct?
16 A. That's correct.
17 Q. So for four years.
18 And you have a Bachelor of Science in
19 aeronautical science; is that correct?
20 A. That's correct.
21 Q. Then it says you have a master's degree from
22 Embry-Riddle Aeronautical University.
23 Do you?
24 A. That's not correct. But I have master's from
25 another university. Not that one. Ended up

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1 transferring from that one due to the fund that is
2 expensive.
3 Q. So you do not have a master's degree from
4 Embry-Riddle?
5 A. No. I have it from another university.
6 Q. From where?
7 A. Other one. Other university.
8 Q. What other university?
9 A. It's called Liberty University.
10 Q. You have a master's degree from liberty?
11 A. I'm working on it. I'm still in school.
12 Q. Are you doing it online?
13 A. That's correct.
14 Q. Has it been 100 percent online?
15 A. That's correct. I mean, Corona, so
16 100 percent online.
17 Q. Did you ever attend Embry-Riddle?
18 A. Yes.
19 Q. When did you attend there?
20 A. I don't know what year, but it was online too.
21 I didn't go there. It was online.
22 Q. So you did not come to Florida to attend
23 Embry-Riddle?
24 A. No.
25 Q. Okay. Let's see if this works. Okay. This

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1 is Exhibit 27.
2 Do you recognize this document?
3 (Petitioner's Exhibit 27 was marked for
4 identification.)
5 THE WITNESS: That's my Facebook page.
6 BY MS. DOPPELT:
7 Q. It's a multi-page document. This is the first
8 page.
9 A. That's my Facebook.
10 Q. It's your current Facebook page for you
11 personally?
12 A. That's correct. I believe so, yes.
13 Q. Okay. So I looked at this page, and I'm --
14 you and I are not Facebook friends. Correct?
15 A. That's correct.
16 Q. So this is public information?
17 A. Some of it, yeah.
18 Q. Okay. Okay.
19 So this is the Facebook page you're currently
20 posting things on; is that correct?
21 A. That's correct, yes. Personal one, yeah.
22 Q. All right. I'm not here to make fun of jokes.
23 Don't worry.
24 A. Yeah. No worry.
25 Q. Everybody has stuff on their Facebook pages.

1 Okay.
 2 A. Okay.
 3 Q. I just don't know a way to move this quicker.
 4 Okay. Okay.
 5 So the dog picture is from your -- from your
 6 Facebook -- your current Facebook page, and this is the
 7 same thing we were -- this is the same dog we were
 8 looking at before?
 9 A. Okay. Yes.
 10 Q. And this was posted in 2017. Correct?
 11 A. That's correct.
 12 Q. Okay.
 13 A. When we got new -- new uniform, I posted 2017
 14 and posted it in my then shirt on my business --
 15 business page, because I have more friends as a personal
 16 than I have as a business.
 17 Q. Okay. Is this a student of yours?
 18 A. No. If you look -- if you look at his name,
 19 it's a very famous -- it's a very famous person. It's a
 20 celebrity in United States. I know a lot about him, so
 21 I -- I got a chance to fly -- to fly him once.
 22 Q. Okay. Sorry. I'll come to it soon.
 23 Okay. And here's the next place that I saw on
 24 your current Facebook page where the logo appeared.
 25 A. Okay.

1 Q. Do you know why you put this up on February of
 2 2017?
 3 A. Just posting stuff. like I was posting other
 4 stuff.
 5 Q. This is right after you formed your LLC.
 6 Correct?
 7 A. I mean, right after I -- I formed my LLC, I
 8 started posting everywhere. Just almost anywhere I can
 9 to get a customer and -- and cover up my costs.
 10 Q. Okay. I came to the end of anything I can see
 11 on your Facebook page.
 12 A. Because --
 13 Q. And that was -- the date was August 27, 2014?
 14 A. Correct. You see August 27, 2014. All the
 15 pages, New York. And then icon is the public. That's
 16 the only thing I show the public that they're able to
 17 see.
 18 The one I put as friend -- icon friend,
 19 everybody see it, because that's only -- all the things
 20 you can have access to. But Facebook is very open
 21 there. So if you are my friend, you'll be able to see
 22 more in there.
 23 But it's only public. So now if I go -- if I
 24 change the icon to friend, you won't be able to see any
 25 of that, if you go back to Facebook right now. That's

1 not --
 2 Q. So -- I'm sorry. I didn't mean to interrupt.
 3 Keep talking.
 4 A. That -- that -- that does not mean that the
 5 Facebook was created in 2014. That means that's what
 6 I'm allowing you to see as a public, because you're not
 7 my friend. So if I go back to my Facebook and change
 8 the icon to friend, you won't be able to see that
 9 either.
 10 So -- so that's what I'm trying to tell you.
 11 You only see what I'm allowing you to see, because
 12 that's for the public. And I -- if you're not my
 13 friend, you're not going to see it.
 14 Like, for example, you give -- I don't know if
 15 you can see my camera over here, July 4th. You'll be
 16 able to see my logo, none of it, nor my simulator that
 17 I'm buying. You're not going to see it because it's a
 18 friend.
 19 And all these things are July 22. If you go
 20 back to July 22, like what you're seeing, you're not
 21 going to see it because I'm not allowing you to see it
 22 because I'm not your friend on Facebook.
 23 Q. Okay. So can you show me on your phone right
 24 there the Facebook stuff from 2013 that you say was when
 25 you first created the logo?

1 A. I could, but, again, it would take me a while.
 2 I have to scroll all the way until I get to 2013.
 3 Are you able to see my phone?
 4 Q. Can you hold it closer to the --
 5 A. So -- so all -- all this stuff, actually, you
 6 can't see it because I only share it for my friends; so
 7 you can't see the stuff. So if you check my Facebook,
 8 see all this stuff. But I have to keep scrolling down
 9 for seven years to find it, which is going to take me at
 10 least an hour to find it. But it's there, and I showed
 11 you -- I showed you a picture of it.
 12 MR. WENGROVSKY: Okay. Ava, if we have
 13 anything relevant to produce supplementally, we
 14 certainly will. We'll take a look at that and see
 15 if there's any other relevant material later.
 16 MS. DOPPELT: Thank you, Mr. Wengrovsky.
 17 BY MS. DOPPELT:
 18 Q. Mr. Afaf, did you ever live in Orlando?
 19 A. If I lived in Orlando? I stayed -- I -- yes,
 20 I lived there, but I only stayed with a friend. I mean,
 21 I didn't rent anything. I was staying with him.
 22 Q. You were staying with a friend?
 23 A. That's correct.
 24 Q. When was that?
 25 A. When was that? Probably 2016, if I could

1 recall correctly. I'm not sure. I don't recall the
 2 date.
 3 Like I said, I was in Michigan, I was in
 4 California, I was all over the place; and so I go all
 5 over the place.
 6 Q. Do you know what the address was of the friend
 7 you stayed with?
 8 A. Not on top of my head.
 9 Q. Did you ever live at 1101 -- 11021 Regency
 10 Commons Court in Orlando?
 11 A. I don't remember the address, but I remember I
 12 was in Orlando.
 13 Q. Where was it?
 14 A. I -- I don't know the address exactly, but I
 15 was -- I remember I was in Orlando.
 16 Q. How long did you live in Orlando?
 17 A. Probably a month or two. Yeah. Two months or
 18 somewhere like that.
 19 Q. Are you registered to vote?
 20 A. Yes.
 21 Q. Do you know where?
 22 A. That year, but I believe it was 2016 or 2015.
 23 I'm not -- really not sure.
 24 Q. You registered to vote in Orlando?
 25 A. Correct. They did register because that was

1 election day, so when I vote -- and I did a vote and
 2 that was it.
 3 I'm not registered to vote anymore. I was
 4 because I happened to be there, so I did it. But I
 5 think that's my right to vote, so I went there and voted
 6 because I -- I was in Orlando.
 7 Q. So I assume that means you're an American
 8 citizen. Correct?
 9 A. That's correct. Yes.
 10 Q. When did you become a citizen?
 11 A. I'm not going to answer that question. It's
 12 not relevant.
 13 Q. Okay.
 14 A. I don't know.
 15 Q. You don't know?
 16 A. No.
 17 MS. DOPPELT: Okay. Give me a minute, and let
 18 me see if I have something else.
 19 THE WITNESS: Sure.
 20 (Petitioner's Exhibit 21 was marked for
 21 identification.)
 22 BY MS. DOPPELT:
 23 Q. Mr. Afaf, have you ever seen this before? I'm
 24 showing you Exhibit 21.
 25 Have you ever looked at this before?

1 A. I saw it when I got the conflict.
 2 Q. When you got what?
 3 A. When my friend sent me screenshots about --
 4 about this business, then the first time I saw it, yes.
 5 Q. The first time you saw what?
 6 A. First time I saw this picture. And it's when
 7 my friend that's telling me about my -- my logo being
 8 used somewhere else.
 9 Q. You never saw your advertising agency actually
 10 create your logo on the computer, did you? You weren't
 11 watching when they did that. Right?
 12 A. I was there.
 13 Q. You were there?
 14 A. Correct.
 15 Q. What program did they use to create that?
 16 A. I don't remember.
 17 Q. Did they use Clipart. Do you know what that
 18 is?
 19 A. No clue.
 20 Q. No clue what it is, or you don't know if they
 21 used it?
 22 A. I don't know -- I don't even know what Clipart
 23 is either, and I don't know what they used. When we
 24 were in art school, we used something else. But I
 25 never -- I don't remember, actually.

1 Q. What did you study in art school?
 2 A. Graphic design.
 3 Q. So when you -- your friend, who you don't
 4 remember the name of, sent you something that showed
 5 Badawi Aviation and its logo, that was the first time
 6 you ever saw it?
 7 A. Yeah. First time when I saw it, when he sent
 8 me a picture, yes.
 9 Q. When you lived in Orlando in 2016, what were
 10 you doing here?
 11 A. Visiting with friends, staying with him,
 12 hanging out, and stuff like that.
 13 Q. Were you flying?
 14 A. No.
 15 Q. Did you ever go to the executive airport?
 16 A. No.
 17 Q. Have you ever been to the Orlando Executive
 18 Airport?
 19 A. No.
 20 (Petitioner's Exhibit 21 was marked for
 21 identification.)
 22 BY MS. DOPPELT:
 23 Q. And this is still part of Exhibit 21, which
 24 appears to be a Facebook page.
 25 Have you ever seen this before?

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1 A. When I looked -- when I look before, no, I
2 never seen it.
3 Q. I'm sorry?
4 A. Before I never seen it.
5 Q. Before what?
6 A. Before the friend sent me the information, I
7 never seen it.
8 Q. Have you seen it since?
9 A. Not recently. When I did my research, yeah.
10 Q. Have you ever gone to the Facebook page of
11 Badawi Aviation?
12 A. Yes, I did. For my research, yes, to look at
13 it, to see where my logo's being used.
14 Q. When did you go to the Facebook page?
15 A. A couple months ago when things started.
16 Q. Let me show you Exhibit 7. You've looked at
17 this already. This is petitioner's first request of
18 interrogatories to respondent.
19 And you told me you'd seen this before.
20 Correct?
21 A. Okay. Yes.
22 Q. You got them from your lawyer?
23 A. Correct.
24 Q. Do you know if you prepared answers to the --
25 interrogatories are questions. It's another word for

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1 questions.
2 Do you know if you prepared answers to these
3 questions?
4 A. I -- I don't remember all we discussed with my
5 lawyer.
6 Q. Do you know if you served any answers to these
7 questions?
8 A. I don't remember. We talked about a lot of
9 stuff, but I don't know exactly details.
10 Q. Did you ever write down answers to these
11 questions?
12 A. I don't remember. I just -- we just talked,
13 so I don't remember exactly what happened.
14 Q. So you didn't prepare any kind of writing in
15 response to these questions? You just spoke with your
16 lawyer. Correct?
17 MR. WENGROVSKY: Objection.
18 BY MS. DOPPELT:
19 Q. I don't want you to tell me what your lawyer
20 said.
21 MR. WENGROVSKY: You're get into
22 attorney-client communications, and you've been
23 served with the answers that speak for themselves.
24 BY MS. DOPPELT:
25

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1 Q. Okay. Mr. Afaf, you can answer the question.
2 Did you write down anything?
3 A. I don't know.
4 MR. WENGROVSKY: Please don't answer. We're
5 not discussing communications verbal or written.
6 MS. DOPPELT: Correct. We're not discussing
7 communications. I'm asking Mr. Afaf if he's
8 written down any answers to these questions on his
9 own.
10 BY MS. DOPPELT:
11 Q. You can answer that.
12 A. I don't -- I don't remember.
13 Q. You don't remember?
14 A. That's correct.
15 Q. Okay. Okay. Okay. Okay.
16 So you received this from your lawyer,
17 correct -- a copy of it?
18 A. Whatever -- yeah, I think so.
19 Q. Okay.
20 A. Whatever copy he sent you, he would send it to
21 him; so...
22 Q. And do you know if an answer was served --
23 answers to these were served?
24 MR. WENGROVSKY: Objection. It's been asked
25 and answered twice now.

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1 BY MS. DOPPELT:
2 Q. What was the answer?
3 A. I don't remember.
4 MR. WENGROVSKY: He didn't recall.
5 BY MS. DOPPELT:
6 Q. Okay. Sorry. Sorry. I thought I was in
7 Exhibit 17, but it slipped into another exhibit, not
8 Exhibit 7. So hold on.
9 Okay. We're back in Exhibit 7, Mr. Afaf.
10 A. Okay.
11 Q. And you said you've seen this before.
12 Correct?
13 A. I mean, too much documents, so I think, yes.
14 Q. Okay.
15 A. I mean, I can't remember everything. There's
16 so much. I believe, yes.
17 Q. Okay. Still in Exhibit 7, which is the
18 interrogatories to you. There's a page that looks like
19 this.
20 Have you seen this page?
21 A. I think, yes.
22 Q. Did you get -- did you have your answers
23 notarized?
24 A. I don't remember. I don't recall none of
25 that.

1 Q. Is there a notary who works for your company?
 2 A. I don't recall. I mean, I have people working
 3 for me, but -- but I don't recall.
 4 Q. Did you submit any notarized answers to the
 5 interrogatories ever?
 6 A. I don't -- I don't recall.
 7 Q. Do you know when you served the answers to the
 8 interrogatories?
 9 A. I don't know. Probably the date up there, but
 10 I don't recall the exact -- exact date.
 11 Q. If I told you that you didn't serve answers to
 12 interrogatories until a motion was filed to compel you
 13 to serve answers, does that refresh your recollection?
 14 A. No, I don't recall anything.
 15 Q. Did you refuse to answer these interrogatories
 16 until a motion was filed to compel you to do so?
 17 A. I did not refuse anything, but I don't recall
 18 anything else. I never refused anything.
 19 Q. Now, this is still in Exhibit 7, which is the
 20 interrogatories to you.
 21 A. Sure.
 22 Q. And these were also served on February 10,
 23 2020. Correct?
 24 A. That's the date that's up there. I can see it'
 25 up there, February 10, 2020.

1 Q. To your lawyer?
 2 A. Sure. I see his name up there.
 3 Q. Okay. And is there any reason you refused to
 4 answer these on time?
 5 A. I never --
 6 MR. WENGROVSKY: Objection.
 7 Go ahead.
 8 BY MS. DOPPELT:
 9 Q. You can answer.
 10 A. I never refused, so I don't know.
 11 Q. Hang on. I seem to be missing an exhibit
 12 here. Well...
 13 MR. WENGROVSKY: Which one are you looking
 14 for?
 15 MS. DOPPELT: 19.
 16 THE WITNESS: It's right there.
 17 MS. DOPPELT: No. That's 20.
 18 MR. WENGROVSKY: About five down from where
 19 you are. It's out of order.
 20 MS. DOPPELT: Oh, sorry. Thank you. Thanks.
 21 Mr. Wengrovsky.
 22 BY MS. DOPPELT:
 23 Q. Okay. Let me show you what's been identified
 24 as Exhibit 19.
 25 (Petitioner's Exhibit 19 was marked for

1 identification.)
 2 BY MS. DOPPELT:
 3 Q. This is titled Registrant's Answers to First
 4 Interrogatories.
 5 I'll show it to you and ask you if you've ever
 6 seen this before?
 7 A. I think I did.
 8 Q. Do you know when you saw them?
 9 A. No, I don't recall.
 10 Q. Okay. Did you write any answers to these
 11 interrogatories?
 12 A. I don't recall.
 13 Q. Do you know how these interrogatories got
 14 answered?
 15 A. I don't recall.
 16 Q. Okay. We're still on Exhibit 19, the answers
 17 to interrogatories.
 18 Do you see when this is dated?
 19 A. I see July 1st, and that's my signature.
 20 That's all I see.
 21 Q. Do you know why it was not served until
 22 July 1st?
 23 A. I don't know.
 24 Q. Is this your signature?
 25 A. That's correct.

1 Q. So you read these answers and you approved
 2 them. Correct?
 3 A. That's correct.
 4 Q. Did you approve the answers -- so number seven
 5 asks you: Have you ever visited Badawi's place where he
 6 offers his services -- Badawi's place of business? And
 7 it asks you when and where, if you did. And your answer
 8 is not applicable.
 9 What does that mean?
 10 A. That means never. I didn't even know he
 11 existed.
 12 Q. Okay. Why didn't you just say no?
 13 A. Because it's not applicable -- not applicable,
 14 because I -- I never know it even existed until I got
 15 the picture from a friend of mine.
 16 Q. And the interrogatory number eight asks you if
 17 you ever met Mr. Badawi and to identify the
 18 circumstances. And your answer, again, is not
 19 applicable.
 20 What does that mean?
 21 A. I never heard of him existed until I get a
 22 picture of -- been informed that he is using my logo.
 23 Q. So the answer was no. Correct?
 24 A. Yeah, I never met him. I don't even know -- I
 25 don't even know what he looks like. no.

1 Q. Why did you not say no? Don't tell me if your
2 lawyer told you.
3 MR. WENGROVSKY: Objection. Move on, you
4 already received a revised copy at your request.
5 THE WITNESS: It's just a word there. It's
6 just a word there. English is not my first
7 language, so I just worded it that.
8 BY MS. DOPPELT:
9 Q. Okay. Are you aware that you filed revised
10 answers to these interrogatories?
11 A. Whatever my lawyer did in the middle.
12 Q. Did you know that revised answers to
13 interrogatories were served?
14 A. I believe. I don't remember, but I believe
15 so. So whatever he does, it -- it's fine.
16 Q. Did you prepare revised answers?
17 A. I believe so. I don't recall. We talk and --
18 no. He's my lawyer. so client. We talk a lot, but I
19 don't know specific stuff each time we talk.
20 Q. Do you know what was changed in the revised
21 interrogatory answers?
22 A. I don't remember.
23 Q. Is this your signature on the last page of
24 these?
25 A. That's correct.

1 Q. And these were served a little over a week
2 ago. Correct?
3 A. July 15th. That's correct.
4 Q. But you don't remember doing this?
5 A. I don't remember what's the details. I
6 remember things going on and doing it, but I don't know.
7 I don't remember the wording on the stuff, because
8 there's a lot going on in my head; so...
9 Q. Okay. And your answers to these
10 interrogatories were never notarized. Correct?
11 A. I don't recall.
12 Q. Okay.
13 MS. DOPPELT: May be all I have. Just give me
14 a few minutes to check my notes.
15 THE WITNESS: Sure. Can I have a break for
16 ten minutes.
17 MS. DOPPELT: Sure.
18 THE WITNESS: Okay.
19 MS. DOPPELT: Yeah. That's fine.
20 THE WITNESS: I'll be right back in
21 10 minutes.
22 MS. DOPPELT: That's okay. I have 1:24; so...
23 (Off the record.)
24 MS. DOPPELT: Mr. Wengrovsky, are you there?
25 MR. WENGROVSKY: Yes. Thanks.

1 MS. DOPPELT: Okay.
2 BY MS. DOPPELT:
3 Q. All right. Let me just ask you one or two
4 other things, and I think we're almost done.
5 Mr. Afaf, how long have you lived in
6 Pennsylvania?
7 A. Probably a year and a half to two.
8 Q. Do you commute every day to Long Island?
9 A. No.
10 Q. How often are you in your company office?
11 A. Probably once a week, twice. Depends. I
12 mean, I don't have specific dates. I mean, how many
13 times I have to be there just depends.
14 Q. Yeah. I'm sorry, because this is not a normal
15 time, you know. People aren't going to work the same
16 way as they once did.
17 When we're not in quarantine, were you going
18 to your office more often?
19 A. Correct. Yes.
20 Q. How long does it take you to commute?
21 A. Depends -- depends when I'm arriving.
22 Q. Are you a commercial pilot in addition to
23 Afaf Aviation?
24 A. That's correct, yes.
25 Q. Who do you work for?

1 A. United.
2 Q. I'm sorry?
3 A. United.
4 Q. United Airlines?
5 A. Correct. Yes.
6 Q. What do you do for United Airlines?
7 A. Fly an aircraft that carries passengers.
8 Q. Full time?
9 A. Correct. Yes.
10 Q. Do you receive a salary from United Airlines?
11 A. Correct.
12 Q. Are you currently flying or are you on
13 furlough?
14 A. Furlough.
15 Q. When did you start working there?
16 A. Probably 2017. 2016, I believe. 2016, end of
17 it.
18 Q. Where are you based? What airport are you
19 based from?
20 A. Newark.
21 Q. Do you pay taxes in Pennsylvania?
22 A. Who?
23 Q. Do you pay Pennsylvania income taxes?
24 A. Yes, I do.
25 Q. Where did you live before you lived at your

1 current address in Pennsylvania?
 2 A. I lived in New York City.
 3 Q. Where in New York City?
 4 A. Queens. Queens -- most of the time in Queens
 5 and then in Long Island too. And Farmingdale,
 6 Long Island.
 7 Q. You said you were currently studying for your
 8 master's degree?
 9 A. That's correct.
 10 Q. What's it in?
 11 A. Aeronautics.
 12 Q. When will you be finished?
 13 A. I don't know. It depends on the academy. It
 14 depends on how fast they pay and how much discount they
 15 give me.
 16 Q. Okay.
 17 MS. DOPPELT: I don't think I have anything
 18 further.
 19 Mr. Wengrovsky do you have any
 20 cross-examination?
 21 MR. WENGROVSKY: No cross-examination.
 22 MS. DOPPELT: Okay. Mr. Afaf, since you say
 23 you didn't ever participate in a deposition
 24 before -- and I see Ms. Stubben is back on here.
 25

1 MS. DOPPELT: Okay. All right. I guess we
 2 can decide that. So I just want to make sure you
 3 understood that you have two choices: read it and
 4 sign it or assume that Ms. Stubben didn't make any
 5 mistakes. All right.
 6 THE WITNESS: I appreciate that. Thank you.
 7 MS. DOPPELT: Okay. Well, thank you, then,
 8 for your participation today, and we'll continue to
 9 be in touch with you through your lawyer.
 10 THE WITNESS: Thank you very much.
 11 (Deposition concluded at 1:33 p.m.)
 12
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 25

1 Ms. Stubben, why don't you explain to Mr. Afaf
 2 the options.
 3 THE REPORTER: Just if you want to read or
 4 waive the transcript if it's ever ordered.
 5 MS. DOPPELT: Okay. Mr. Afaf, what she's
 6 telling you is you have an opportunity, if we order
 7 this transcript -- that's, you know, a printed copy
 8 of your testimony, you could read it and sign it,
 9 or you can not bother with that. That's called
 10 waiving.
 11 What is your preference?
 12 THE WITNESS: I will have to discuss that with
 13 my lawyer.
 14 MS. DOPPELT: Okay. So you're not going to
 15 say now? You don't know now?
 16 MR. WENGROVSKY: I will order a copy
 17 electronically for our review for accuracy.
 18 THE REPORTER: Did you want this transcribed,
 19 Ms. Doppelt?
 20 MS. DOPPELT: I'm going to decide after --
 21 I'll tell you tomorrow.
 22 But if we do have it transcribed, Mr. Afaf, do
 23 you want to sign -- do you want the opportunity to
 24 sign it?
 25 THE WITNESS: I would leave that to my lawyer.

1 CERTIFICATE OF OATH
 2
 3 STATE OF FLORIDA:
 4 COUNTY OF ORANGE:
 5 I, Michelle Stubben, Court Reporter and Notary Public,
 6 State of Florida at Large, certify that MOHCINE AFAF
 7 personally appeared before me by videoconference and was
 8 duly sworn.
 9 WITNESS my hand and official seal this July 28, 2020.
 10
 11
 12
 13 *Michelle Stubben*
 14 MICHELLE FULIDUS STUBBEN, FPR,
 15 NOTARY PUBLIC AND COURT REPORTER
 16 MY COMMISSION #GG 175292
 17 EXPIRES: MARCH 8, 2022
 18 Bonded Through Notary Public
 19 State of Florida
 20
 21
 22
 23
 24
 25

1 CERTIFICATE OF REPORTER
 2
 3 STATE OF FLORIDA;
 4 COUNTY OF ORANGE;
 5 I, Michelle Stubben, FPR, certify that I was authorized
 6 to and did stenographically report the foregoing
 7 deposition of MOHCINE AFAP; that the review of the
 8 transcript was requested; and that the foregoing pages 4
 9 through 160, inclusive, are a true and complete record
 10 of my stenograph notes.
 11 I further certify that I am not a relative or employee
 12 of any of the parties, nor am I a relative or counsel
 13 connected with the parties' attorneys or counsel
 14 connected with the action, nor am I financially
 15 interested in the outcome of the action.
 16 DATED this August 7, 2020.
 17
 18
 19
 20
 21
 22
 23
 24
 25

Michelle Stubben
 MOHCINE STUBBEN, FPR
 Court Reporter

1 WITNESS NOTIFICATION LETTER
 2 August 11th, 2020
 3 MOHCINE AFAP
 4 C/O: TODD WENGROVSKY, ESQUIRE
 5 Law Offices of Todd Wengrovsky, PLLC.
 6 285 Southfield Road, Box 585
 7 Calverton, NY 11933
 8
 9 In Re: Badawi Aviation, LLC -v- Afaf Aviation, LLC
 10 Deposition taken July 28, 2020
 11
 12 The transcript of the above-referenced proceeding has
 13 been prepared and is being provided to your office for
 14 review by the witness.
 15
 16 We respectfully request that the witness complete their
 17 review within 30 days and return the errata sheet to our
 18 office.
 19 The original of this transcript has been
 20 forwarded to the ordering party; and your errata, once
 21 received, will be forwarded to all ordering parties.
 22
 23 Sincerely,
 24
 25 *Michelle Stubben*
 MICHELLE PULIDO STUBBEN, FPR
 WAIVER:
 I, MOHCINE AFAP, hereby waive the reading & signing of
 my deposition transcript.

 MOHCINE AFAP Date

1 ERRATA SHEET
 2 CASE NO.: 92072819
 3 CASE STYLE: Badawi Aviation, LLC -v- Afaf Aviation, LLC
 4 DEPOSITION OF: MOHCINE AFAP - July 28, 2020
 5 At the time of the reading and signing of the
 6 deposition, the following changes were noted.
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22 Under penalties of perjury, I have read my
 23 deposition in this matter and that it's true and
 24 correct, subject to any changes in form or substance as
 25 reflected above.
 Dated: _____ Signed: _____

Exhibit C

CONFIDENTIAL

Exhibit D

Generated on: This page was generated by TSDR on 2020-07-26 21:47:56 EDT

Mark: AF AF AVIATION



US Serial Number: 87937718

Application Filing Date: May 26, 2018

US Registration Number: 5865928

Registration Date: Jan. 29, 2019

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Service Mark

TMS Common Status Descriptor:



LIVE/REGISTRATION/Cancellation/Invalidation Pending

This trademark application has been registered with the Office, but it is currently undergoing a challenge which may result in its removal from the registry.

Status: A cancellation proceeding is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: Nov. 22, 2019

Publication Date: Nov. 13, 2018

Mark Information

Mark Literal Elements: AF AF AVIATION

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of the wording "AF AF" above the wording "AVIATION" with a design of an airplane forming part of the letter "A" in "AF AF" and motion lines behind the plane.

Color(s) Claimed: Color is not claimed as a feature of the mark.

Disclaimer: "AVIATION"

Design Search Code(s): 21.01.25 - Airplanes, paper; Toy Hoops; Banks, toy; Darts; Disc, toy flying; Jack-in-the-box; Jacks (game); Noisemakers; Paper airplanes; Pinball machines; Rocking horse; Roulette wheels; Sand boxes (toys); Sand toys; Slot machines; Video game (handheld); Video game machines; Yoyos (yo-yos); Arcade games

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [..] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of Incontestability; and
- Asterisks "*" identify additional (new) wording in the goods/services.

For: Airplane flight instruction

International Class(es): 041 - Primary Class

U.S Class(es): 100, 101, 107

Class Status: ACTIVE

Basis: 1(a)

First Use: Jan. 04, 2017

Use In Commerce: Jan. 04, 2017

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Proceeding Number: 92072819

Filing Date: Jul 02, 2020

Status: Pending

Status Date: Jul 08, 2020

Interlocutory Attorney: MIKE WEBSTER

Defendant

Name: Afaf Aviation

Correspondent Address: TODD WENGROVSKY
LAW OFFICES OF TODD WENGROVSKY PLLC
285 SOUTHFIELD ROAD BOX 585
CALVERTON NY UNITED STATES , 11933

Correspondent e-mail: contact@twlegal.com

Associated marks

| Mark | Application Status | Serial Number | Registration Number |
|---------------|--------------------------------------|-----------------|---------------------|
| AFAF AVIATION | Cancellation Pending Plaintiff(s) | <u>87937718</u> | <u>5665928</u> |

Name: Badawi Aviation, LLC

Correspondent Address: AVA K DOPPELT
ALLEN DYER DOPPELT & GILCHRIST PA
255 SOUTH ORANGE AVENUE SUITE 1401
ORLANDO FL UNITED STATES , 32801

Correspondent e-mail: adoppell@allendyer.com , mrodriguez@allendyer.com

Associated marks

| Mark | Application Status | Serial Number | Registration Number |
|--------------------|--------------------|---------------|---------------------|
| SEE ATTACHED IMAGE | | | |

Prosecution History

| Entry Number | History Text | Date | Due Date |
|--------------|--|--------------|--------------|
| 1 | FILED AND FEE | Nov 22, 2019 | |
| 2 | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | Nov 22, 2019 | Jan 01, 2020 |
| 3 | INSTITUTED | Nov 22, 2019 | |
| 4 | ANSWER | Dec 11, 2019 | |
| 5 | P MOT TO COMPEL DISCOVERY | Jun 17, 2020 | |
| 6 | SUSP PEND DISP OF OUTSTNDNG MOT | Jun 23, 2020 | |
| 7 | D OPP/RESP TO MOTION | Jul 02, 2020 | |
| 8 | PROCEEDINGS RESUMED | Jul 08, 2020 | |

Exhibit E

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87937718

Filing Date: 05/26/2018

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

| Input Field | Entered |
|---|--|
| TEAS Plus | YES |
| MARK INFORMATION | |
| *MARK | <u>\\TICRS\EXPORT17\IMAGEOUT 17\879\377\87937718.xml\1\FTK0002.JPG</u> |
| *SPECIAL FORM | YES |
| USPTO-GENERATED IMAGE | NO |
| LITERAL ELEMENT | AFAF AVIATION |
| *COLOR MARK | NO |
| *COLOR(S) CLAIMED (If applicable) | |
| *DESCRIPTION OF THE MARK (and Color Location, if applicable) | The mark consists of a plane with the name "AFAF AVIATION". |
| PIXEL COUNT ACCEPTABLE | YES |
| PIXEL COUNT | 618 x 440 |
| REGISTER | Principal |
| APPLICANT INFORMATION | |
| *OWNER OF MARK | AFAF AVIATION |
| *STREET | 3327 149th street, 2FL |
| *CITY | Flushing |
| *STATE (Required for U.S. applicants) | New York |
| *COUNTRY | United States |
| *ZIP/POSTAL CODE (Required for U.S. and certain international addresses) | 11354 |
| PHONE | 631-855-8678 |
| EMAIL ADDRESS | XXXX |
| AUTHORIZED TO COMMUNICATE VIA EMAIL | Yes |
| LEGAL ENTITY INFORMATION | |

| | |
|--|--|
| *TYPE | LIMITED LIABILITY COMPANY |
| *STATE/COUNTRY WHERE LEGALLY ORGANIZED | New York |
| GOODS AND/OR SERVICES AND BASIS INFORMATION | |
| *INTERNATIONAL CLASS | 041 |
| *IDENTIFICATION | Airplane flight instruction |
| *FILING BASIS | SECTION 1(a) |
| FIRST USE ANYWHERE DATE | At least as early as 01/04/2017 |
| FIRST USE IN COMMERCE DATE | At least as early as 01/04/2017 |
| SPECIMEN FILE NAME(S) | |
| ORIGINAL PDF FILE | SPE0-7630201192-20180525220350104093 . afafaviationspec.pdf |
| CONVERTED PDF FILE(S) (1 page) | \\TICRS\EXPORT17\IMAGEOUT17\879\377\87937718\xml\FTK0003.JPG |
| SPECIMEN DESCRIPTION | screenshot of the AFAF Aviation website with the applied for mark in use as a logo |
| ADDITIONAL STATEMENTS SECTION | |
| *TRANSLATION (if applicable) | |
| *TRANSLITERATION (if applicable) | |
| *CLAIMED PRIOR REGISTRATION (if applicable) | |
| *CONSENT (NAME/LIKENESS) (if applicable) | The name(s), portrait(s), and/or signature(s) shown in the mark identifies Mohcine Afaf, whose consent(s) to register is made of record. |
| CONSENT FILE NAME(S) | |
| ORIGINAL PDF FILE | consent-7630201192-220350104 . afafaviationsoc.pdf |
| CONVERTED PDF FILE(S) (1 page) | \\TICRS\EXPORT17\IMAGEOUT17\879\377\87937718\xml\FTK0004.JPG |
| *CONCURRENT USE CLAIM (if applicable) | |
| CORRESPONDENCE INFORMATION | |
| *NAME | AFAF AVIATION |
| FIRM NAME | AFAF AVIATION |
| *STREET | 3327 149th street, 2FL |
| *CITY | Flushing |
| *STATE (Required for U.S. addresses) | New York |
| *COUNTRY | United States |
| *ZIP/POSTAL CODE | 11354 |
| PHONE | 631-855-8678 |
| *EMAIL ADDRESS | ifyafaf@gmail.com; notifications@trademarkengine.com |
| *AUTHORIZED TO COMMUNICATE VIA EMAIL | Yes |
| FEE INFORMATION | |

EXHIBIT 11

| | |
|------------------------------|----------------|
| APPLICATION FILING OPTION | TEAS Plus |
| NUMBER OF CLASSES | 1 |
| FEE PER CLASS | 225 |
| *TOTAL FEE PAID | 225 |
| SIGNATURE INFORMATION | |
| * SIGNATURE | /Mohcine Afaf/ |
| * SIGNATORY'S NAME | Mohcine Afaf |
| * SIGNATORY'S POSITION | Owner |
| SIGNATORY'S PHONE NUMBER | 631-855-8678 |
| * DATE SIGNED | 05/26/2018 |

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87937718

Filing Date: 05/26/2018

To the Commissioner for Trademarks:

MARK: AFAP AVIATION (stylized and/or with design, see [mark](#))

The mark in your application is AFAP AVIATION.

The applicant is not claiming color as a feature of the mark. The mark consists of a plane with the name "AFAP AVIATION".

The applicant, AFAP AVIATION, a limited liability company legally organized under the laws of New York, having an address of
3327 149th street, 2FL
Flushing, New York 11354
United States
631-855-8678(phone)
XXXX

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 041: Airplane flight instruction

Use in Commerce: The applicant is using the mark in commerce on or in connection with the identified goods/services. The applicant attaches, or will later submit, one specimen as a JPG/PDF image file showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, regardless of whether the mark itself is in the standard character format or is a stylized or design mark. The specimen image file may be in color, and the image must be in color if color is being claimed as a feature of the mark.

In International Class 041, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 01/04/2017, and first used in commerce at least as early as 01/04/2017, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) screenshot of the AFAP Aviation website with the applied for mark in use as a logo.

Original PDF file:

[SPE0-7630201192-20180525220350104093 - afapaviationspec.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Name(s), Portrait(s), Signature(s) of individual(s)

The name(s), portrait(s), and/or signature(s) shown in the mark identifies Mohcine Afap, whose consent(s) to register is made of record.

Original PDF file:

[consent-7630201192-220350104 - afapaviationsoc.pdf](#)

Converted PDF file(s) (1 page)

[Consent File1](#)

The applicant's current Correspondence Information:

AFAP AVIATION

AFAP AVIATION

EXHIBIT 11

3327 149th street, 2FL
Flushing, New York 11354
631-855-8678(phone)

iflyafaf@gmail.com;notifications@trademarkengine.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or the applicant's attorney, or the applicant's domestic representative at the e-mail address provided in this application. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in the loss of TEAS Plus status and a requirement to submit an additional processing fee of \$125 per international class of goods/services.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

Declaration

Basis:

If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
- The mark is in use in commerce on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

AND/OR

If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
- The applicant has a bona fide intention to use the mark in commerce on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.

To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.

The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Mohcine Afaf/ Date: 05/26/2018

Signatory's Name: Mohcine Afaf

Signatory's Position: Owner

Signatory's Phone Number: 631-855-8678

Payment Sale Number: 87937718

Payment Accounting Date: 05/29/2018

Serial Number: 87937718

Internet Transmission Date: Sat May 26 22:13:43 EDT 2018

TEAS Stamp: USPTO/PTK-XX.XX.XXX.XXX-2018052622134309

8593-87937718-610278ecb8d4184a03ef630369

88bd5b5569b152a3cd258cce89744d0c10f8502c

-CC-8395-20180525220350104093



EXHIBIT 11



About

Home / About

Welcome To AFAF Aviation!

AFAF Aviation is a leading provider of flight training and simulator services. We are committed to providing the highest quality of instruction and support to our students.

Our courses are designed to provide a comprehensive understanding of flight operations and the latest industry trends. We offer a variety of courses for pilots, flight attendants, and ground crew members.

AFAF Aviation is a leading provider of flight training and simulator services. We are committed to providing the highest quality of instruction and support to our students.

Statement of Consent

I, MOHCINE AFAP, consent to the use and registration of my name, pseudonym or stage name with this trademark application. Electronically approved: /MOHCINE AFAP/

Exhibit F

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

-----X
BADAWI AVIATION, LLC,

Petitioner,

-against-

AFAF AVIATION,

Registrant.
-----X

REGISTRANT'S
RESPONSES TO
PETITIONER'S
REQUESTS FOR
PRODUCTION

Cancellation No. 92072819

Registrant, in response to Petitioner's Requests for Production, states as follows:

RESPONSES TO REQUESTS FOR PRODUCTION

Document Request No. 1

All documents referring or relating to your selection of Respondent's Mark, including but not limited to all trademark, business name and search engine searches, and any design sources consulted.

Response:

Registrant objects to this Request as overly broad and overly burdensome. Subject to and without waiving the objection, Registrant responds as follows:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 2

All documents referring or relating to your adoption of Respondent's Mark.

Response:

Registrant objects to this Request as overly broad and overly burdensome. Subject to and without waiving the objection, Registrant responds as follows:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 3

All documents referring or relating to your use of Respondent's Mark in connection with your services since the beginning of your business.

Response:

Registrant objects to this Request as overly broad and overly burdensome. Subject to and without waiving the objection, Registrant responds as follows:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 4

All non-privileged documents referring to your application for federal trademark registration for Respondent's Mark.

Response:

Registrant objects to this Request as overly broad and overly burdensome. Subject to and without waiving the objection, Registrant responds as follows:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 5

All documents exchanged between you and the United States Patent and Trademark Office relating to Respondent's Mark.

Response:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 6

Documents sufficient to identify all products and/or services bearing Respondent's Mark.

Response:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 7

All documents referring to and/or evidencing the dates of first use anywhere and the dates of first use in commerce of Respondent's Mark on or in connection with your services.

Response:

Registrant objects to this Request as overly broad and overly burdensome. Subject to and without waiving the objection, Registrant responds as follows:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 8

Documents sufficient to identify the date you first provided your services anywhere and in interstate commerce.

Response:

Registrant will produce relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 9

Samples of all of your advertisements bearing Respondent's Mark, including but not limited to signs, labels, websites, domain names, and articles.

Response:

Registrant will produce relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 10

All documents evidencing the dates of use of your advertisements bearing Respondent's Mark.

Response:

Registrant objects to this Request as overly broad and overly burdensome. Subject to and without waiving the objection, Registrant responds as follows:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 11

Samples showing each of your services.

Response:

Registrant will produce relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 12

Samples of your flight instruction advertisements.

Response:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 13

All documents referring to or showing the actual distribution and/or channels of trade for your services.

Response:

Registrant objects to this Request as overly broad and overly burdensome. Subject to and without waiving the objection, Registrant responds as follows:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 14

Documents sufficient to evidence all the physical and/or online location(s) where your services are provided.

Response:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 15

Documents sufficient to evidence all the physical and/or online location(s) where your services are sold and/or offered for sale.

Response:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 16

Documents sufficient to evidence the amount of gross sales of your services from the beginning of your business to the present.

Response:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 17

Documents sufficient to identify the prices at which you currently offer or intend to offer your services.

Response:

Registrant will produce relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 18

All documents referring to or showing the actual and/or intended customers for your services,

Response:

Registrant objects to this Request as overly broad and overly burdensome. Subject to and without waiving the objection, Registrant responds as follows:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 19

All documents showing any trade shows in which you have participated.

Response:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 20

All documents referring to the amount of advertising expenditures and/or promotional fees you have spent for Respondent's Mark.

Response:

Registrant objects to this Request as overly broad and overly burdensome. Subject to and without waiving the objection, Registrant responds as follows:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 21

All business plans and drafts of business plans in which Respondent's Mark is mentioned or referenced.

Response:

None.

Document Request No. 22

All documents referring to the distinctiveness and/or reputation of Respondent's Mark.

Response:

Registrant objects to this Request as overly broad and overly burdensome. Subject to and without waiving the objection, Registrant responds as follows:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 23

All documents relating, directly or indirectly, to Petitioner, Petitioner's services, Petitioner's related entities, Petitioner's officers, employees, or contractors, or Petitioner's Mark.

Response:

None.

Document Request No. 24

All documents referring to Internet domain names and/or websites containing Respondent's Mark of which you are aware.

Response:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 25

All documents referring to Internet ad words, keywords, metatags, or other Internet advertising tools containing the word "BADAWI" that are used and/or were purchased by you.

Response:

None.

Document Request No. 26

All documents referring to agreements, contracts, assignments, transfers, sales, or licenses involving Respondent's Mark.

Response:

None.

Document Request No. 27

All documents sent or received by you from third parties regarding your alleged rights in your mark, and all responses and replies thereto.

Response:

None.

Document Request No. 28

All documents and correspondence referring to any actual or threatened litigation or any other legal or administrative proceedings to which you have been a party referring to use of Respondent's Mark (except for this Cancellation).

Response:

None.

Document Request No. 29

Your corporate records showing meetings of members, shareholders or directors, resolutions passed, and any other corporate activity referring to Respondent's Mark and/or to this Cancellation, including your "corporate book" of minutes and the like.

Response:

None.

Document Request No. 30

Your executed operating agreement and any attachments thereto.

Response:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 31

All documents referring to and/or evidencing any periods of non-use and/or suspension of the use of Respondent's mark in connection with any of your services.

Response:

None.

Document Request No. 32

All documents you intend to use to support your position in this Cancellation action.

Response:

Registrant objects to this Request as overly broad and overly burdensome. Subject to and without waiving the objection, Registrant responds as follows:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Document Request No. 33

All documents referred to in, or used by you to provide, your Responses to Petitioner's First Set of Interrogatories to Respondent.

Response:

Registrant objects to this Request as overly broad and overly burdensome. Subject to and without waiving the objection, Registrant responds as follows:

Registrant will produce any relevant, non-privileged documents responsive to this request that are within its custody or control.

Dated: Calverton, New York
April 6, 2020

/s/ Todd Wengrovsky
Todd Wengrovsky - TW4823
Law Offices of
Todd Wengrovsky, PLLC.
285 Southfield Road, Box 585
Calverton, NY 11933
Tel (631) 727-3400
Attorney for Registrant

Ava Doppelt

From: Law Offices of Todd Wengrovsky, PLLC. <contact@twlegal.com>
Sent: Tuesday, April 7, 2020 9:37 AM
To: Ava Doppelt
Cc: Michel Rodriguez
Subject: [EXTERNAL] [SPF FAIL] RE: Badawi Aviation v. AFAF Aviation, Cancellation No. 92072819
Attachments: Afaf Aviation Documents.pdf, Afaf TTAB - Registrant's Responses to RPDs.pdf

Ava:

Attached please find Registrant's Responses to Requests for Production, as well as a .pdf file of documents. Because the documents include proof of usage, it is requested that you review same and contact me to explore settlement possibilities before continuing in the Proceeding. Thank you-

Todd Wengrovsky

Law Offices of Todd Wengrovsky, PLLC.
285 Southfield Road, Box 585
Calverton, NY 11933
Tel (631) 727-3400
Fax (631) 727-3401
contact@twlegal.com



Scanned by [McAfee](#) and confirmed virus-free.

Exhibit G

01/26/2020



MOHCINE AFaf

Federal Flight Deck Officer

Airline Transport Pilot

FAA certified flight instructor: CFI-A, CFI-I, MEI, AGI & IGI

AFaf AVIATION

1100 New Highway, Farmingdale, NY 11735

Office: +1(631)-388-8503

Cell: +1(631)-855-8678

Info@afafaviation.com

Mohcine@afafaviation.com

llvafaf@gmail.com

www.afafaviation.com

To whom it may concern,

I, Mohcine Afaf, testifying that I have been using AFaf AVIATION LOGO as shown below since March of 2013.



I designed the logo with the help of the agency US TV Repairs, I came out with the Idea of a plane (EMB145) and my last name. EBM145 It's my dream Jet to fly. Soon Enough It was my First jet to fly as an airline pilot for United Express.

EXHIBIT 22

Little of my Background.

I have an associate degree in Graphic Design from Ecole Superieure Des Art Visual, And a Bachelor's degree in Aviation Administration from State University of New York at Farmingdale

History of the LoGO

With a rich background of design, I draw and describe the Idea to Mr. Hopton the owner of the agency that put my logo together. With the help of Mr. Hopton He was able to put the logo together as well made a Website for me Using the same logo described Above with all color in it. Unfortunately Later the website Been hacked and destroyed and i had to make a new Website through another agency "DESIGNED BY SUNNY AT DESIGNSMITHAGENCY.COM" Using same logo described above.

I have attached Pictures of drawing that I made myself as well as I attached a letter from the agency that made my LoGo.



Friday, 16/2/20

Hi Rick, here is a list:

My name is Jonathan Colbourne (11/04/78) I live in the (UK) Midlands (20) - M. Malvern
And the (UK) town of Hartley - 99% of the population is (UK) 1990. He suggested to
do it at the (UK) school from the (UK) 1990 in the (UK) 1990. My (UK) school
the (UK) 1990 is (UK) in the (UK) and (UK) and (UK) 1990. I (UK) 1990. I (UK) 1990.
I (UK) 1990. I (UK) 1990. I (UK) 1990. I (UK) 1990. I (UK) 1990. I (UK) 1990.
I (UK) 1990. I (UK) 1990. I (UK) 1990. I (UK) 1990. I (UK) 1990. I (UK) 1990.

I (UK) 1990. I (UK) 1990. I (UK) 1990. I (UK) 1990. I (UK) 1990. I (UK) 1990.

I (UK) 1990. I (UK) 1990. I (UK) 1990. I (UK) 1990. I (UK) 1990. I (UK) 1990.

You have questions please write to: colbournej@bt.com or
ustreyon1@gmail.com

Regards

Jonathan Colbourne



177 Regent Street, London, W1B 4LQ, 020 7594 4337
www.afaplan.com



EXHIBIT 22

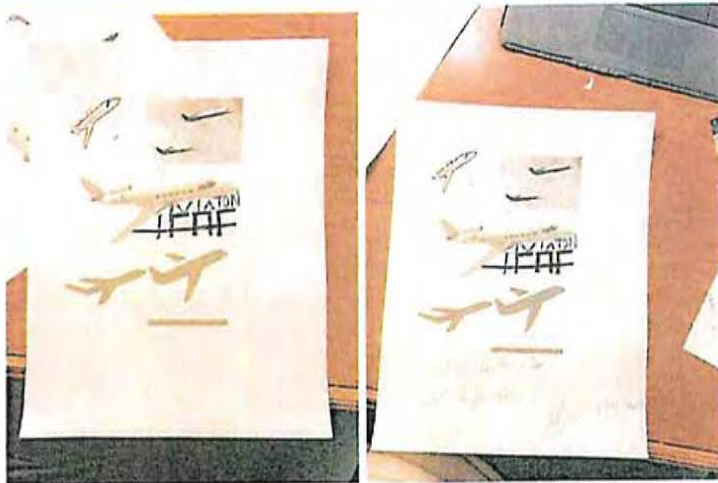


EXHIBIT 22

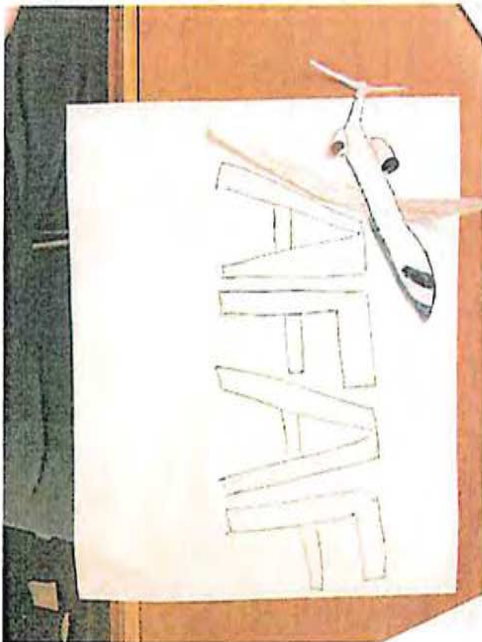


EXHIBIT 22

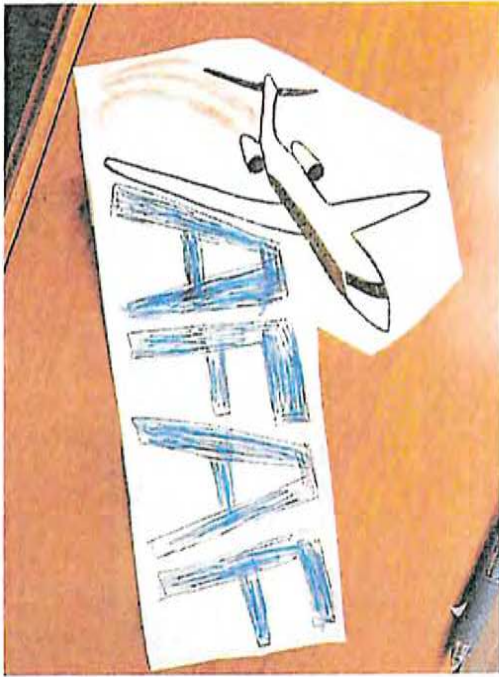
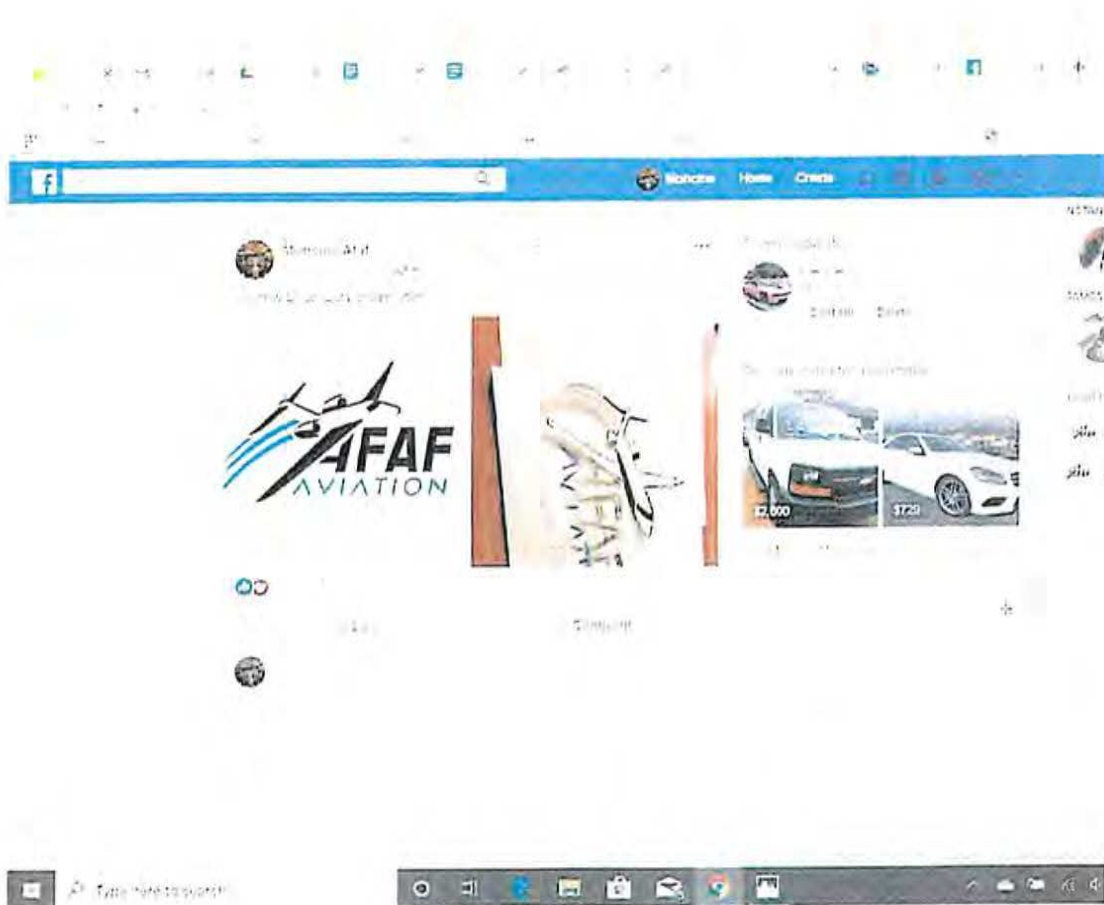


EXHIBIT 22



First time use of LOGO, I shared it on my personal Facebook Account.





From March 2013 till January of 2017, I was doing Business with Flight School named "positive rate gear up", Marcris buchanan is the owner. That time I was an Aviation Student, I used to recruit Students to Marcris using my Business AFAF AVIATION and as well as my logo in it.

In return Marcris Awarded me a Free flight hour so that way I could build flight time towards my Career in Aviation.

At that time AFAF AVIATION was not incorporated nor been advertised on social Media Due a republic airport where the flight school is based at. They are strictly against advertising on social media at least the business has been incorporated and insured and have been holding a commercial permit to operate in the premises.

I have attached a letter from Marcris Buchanan the owner of Positive rate gear up

Marcis Buchanan
388 Midwood St Apt 6J
Brooklyn, NY 11225
positivegearup@aol.com
Phone: 917-941-6041



To Whom it may Concern

I, marceris buchanan airline Pilot and owner of Positive Rate gear Up Flight School, Based in Republic Airport Long Island NY 11735.

I am Testifying that Mohcine Afaf used the Logo above on his Business cards starting from March of 2013. The Logo contained black and blue colors. Mohcine Afaf was a student in my Flight school. I used to award him a free flight lessons in return for recruiting students for me while he was a full time student at State University of New York at Farmingdale as well as cleaning and maintaining the planes in my Flight school. After he Graduate University with a Bachelor's degree in Aviation Administration, he became a full time a flight instructor in my flight school for more than two years. Therefore I taught him how to manage a flight school and how to run a business in general. Early 2017 Mr. Mohcine Afaf incorporated his Flight school with State of NY at Farmingdale Using same Logo mentioned above. I Assisted Mohcine to start his own business by giving him a desk within my flight school school to run his own. Late 2017 he opened his own office and kept growing.

Mohcine Afaf is a very honest man, generous, and helping others. He has a very good reputation within the aviation industry, everyone knows him at republic airport where his business is located..

Sincerely yours,
Marcis Buchanan

Mohcine Afaf

Flight Training Consultant

afaf@afafaviation.com | 314-241-1111 | 631-855-8178

AFAF AVIATION



Positive Rates Gear Up
1100 New Highway
Farmingdale, New York 11735
positiverategearup.com
[\(917\)941-6041](tel:9179416041)

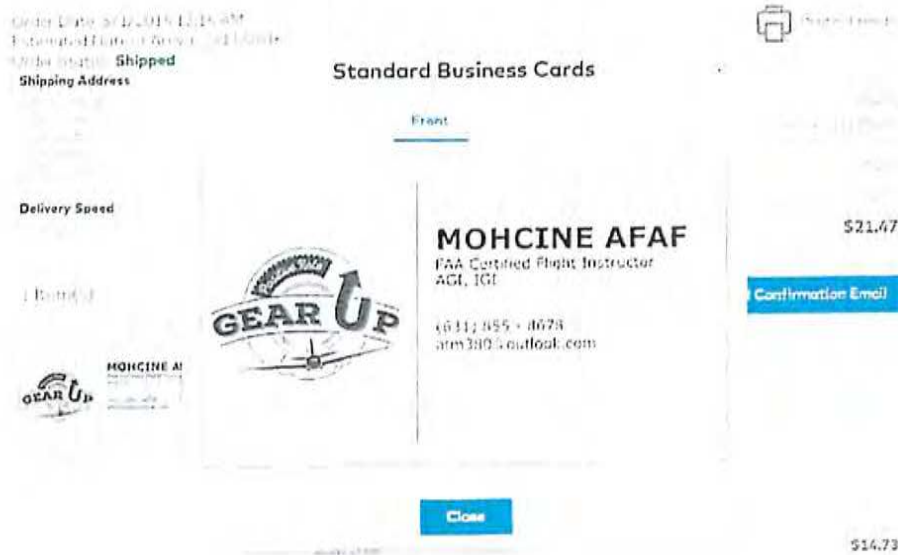
To whom it may concern:

Mareris Buchanan, Omar Webber, Moheine Afaf, and Luis Manzano are employees of Positive Rates Gear Up.

Signature



POSITIVE RATE GEAR UP
1100 New Hwy
Farmingdale NY 11735
(917) 941-6041



I have also attached other letters from other witnesses testifying the use of the LOGO since 2013

Badreddine Messeleka
513 Washington St
Boonton NJ 07005
bd.mess@live.com
(718)552-0746

To whom it may concern
I, Badreddine Messeleka Airline Pilot as well as Former instructor and a good friend of Mr Moheine Afaf for many years, have witnessed Mr. Afaf used his Aviation logo in his business card in 2013 when we were college students at Farmingdale State University. After graduating college and having a bachelor's degree and the required knowledge to manage a business Mr. Afaf Incorporated his business with New York State as AFAF AVIATION LLC, in the year of 2017. Thru the years of friendship I have personally have seen Mr. Afaf working very hard to make his dreams come true, he was able to manage a flight school as well as teach different courses such as Private, Instrument, Commercial. Everyone in Republic airport knows his school and everyone who flew there as a student or instructor was satisfied. It was like a family.



Sincerely

Badreddine Messeleka

A handwritten signature in black ink, appearing to read 'Badreddine Messeleka', written in a cursive style.

Bilal Alsayedi
86-16 120th St
Richmondhill, NY 11418
Phone: (646) 209-2009
Bilalalsayedi@aol.com

To Whom it may Concern
I, Bilal Alsayyedi, Airline Pilot and Former Flight Instructor was Based in Republic Airport, Long Island, New York. Mohcine and I were friends since college. I Witnessed Mohcine used this logo



With Blue and black Colors on his Business cards starting March of 2013, I used to hang out with Mohcine while visiting other aviation colleges and starbucks to speak to people about flying and do introductory flight lesson with the purpose of recruiting for Positive Rate Gear Up. In return Mohcine will get free flight Lessons from the School. Mohcine Afaf was a student of positive Rate Flight School and thereafter he became a flight instructor. In 2017 Mohcie incorporated his business and start his own Flight school using the same logo above.

Best Regards,,
Bilal Alsayedi
First Officer & Flight Instructor

01/25/2020



1/24/2020

William Daza Parra

Davenport, FL, 33896
Phone: (631) 579-9228
Williamdazaparra@hotmail.com

To Whom it may Concern

I, William H. Daza Parra, Freelance Flight Instructor Based in Republic Airport, Long Island, New York,
Witness that Mohcine Afaf used the Logo of AFAF AVIATION

with Colors on his Business cards starting from March of 2013. Mohcine Afaf was a student of positive
Rate Flight School and after he become flight instructor he start he's own Flight school. He also used to
recruit students to come and fly at positive rate using his independent Business Called AFAF AVIATION.
Early 2017, Mohcine Incorporated his business and registered with NY as AFAF AVIATION LLC.

Sincerely,



William Daza Parra

Seung Suh
9591 Graham St. Apt14
Cypress, CA 90630
Phone: (718) 308-5259
stevesuh71@gmail.com

01/24/2020

To Whom it may Concern
I, Seung Suh, Airline Pilot and Freelance Flight Instructor Based in Republic Airport, Long Island, New York, Witness that Mohcine Afaf used the Logo of AFAF AVIATION



With Blue and black Colors on his Business cards starting from March of 2013. Mohcine Afaf was a student of positive Rate Flight School and after he become flight instructor he start his own Flight school. He also used to recruit students to come and fly at positive rate using his independent Business Called AFAF AVIATION. Early 2017, Mohcine Incorporated his business and registered with NY as AFAF AVIATION LLC.

Sincerely,
Seung Suh

A handwritten signature in blue ink, appearing to read 'Seung Suh', is written over a horizontal line.

Late 2016 I graduated flight training and become a flight Instructor and a few months later and incorporated my dream business and paid my due to the airport and to all agencies that are involved in. Since January 2017 I started heavily advertising on Social media like facebook and instagram...etc.

Mids 2018 I started the process of registering the logo that I worked hard to design. On January 29th, 2019 i was successfully able to register my trademark Legally

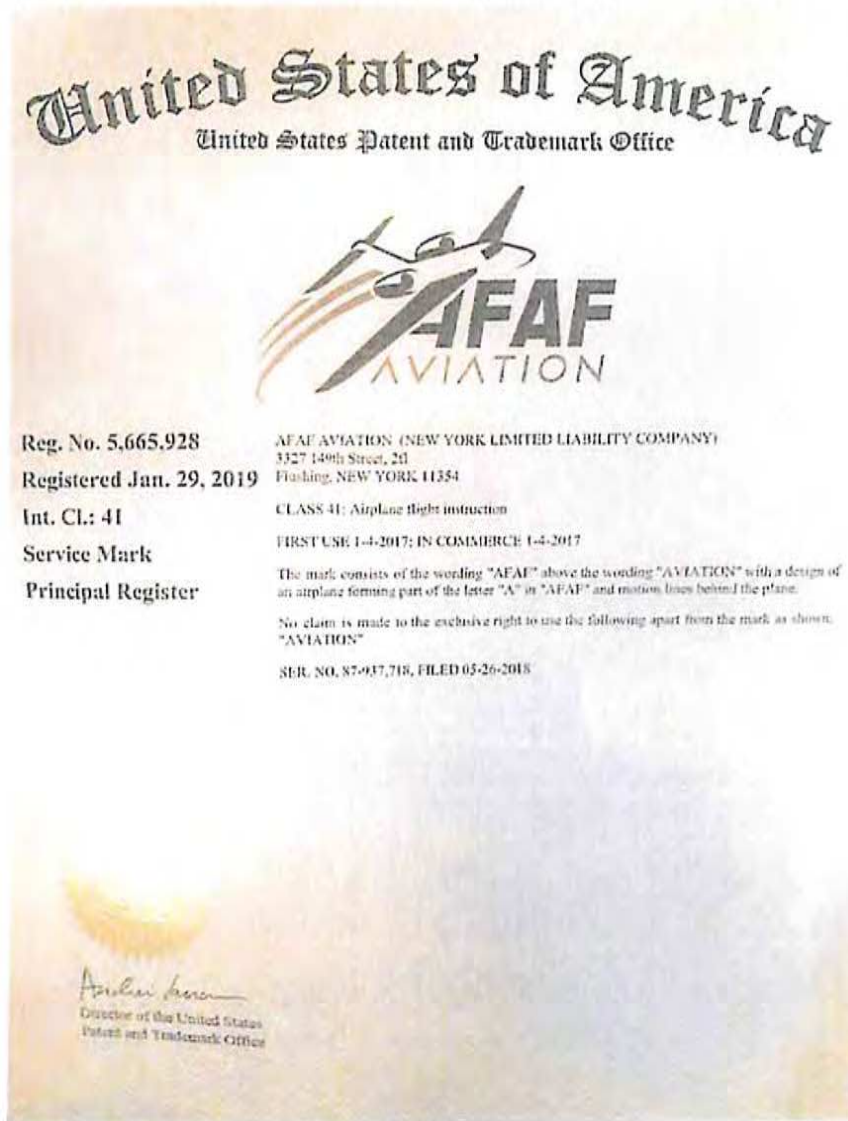


Exhibit H

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Registration
No. 5,665,928

Cancellation No. 92072819

Badawi Aviation, LLC,
Petitioner,

vs.

Afaf Aviation, LLC,
Respondent.

VIDEOCONFERENCE

DEPOSITION OF: Seung Suh

DATE: Monday, August 10, 2020

TIME: 1:19 p.m. - 1:47 p.m.

TAKEN BY: Petitioner

PLACE: Via Videoconference

REPORTED BY: Sara Miller, Notary Public
State of Florida

1 where I ask questions and Mr. Wengrovsky can ask you
2 questions as well to see what you know.

3 A. Please, let's just go with it and I have to
4 go. I'll answer any questions that's regarding to Afaf.
5 Okay. Not regarding to anything else.

6 Q. Okay. What did Mr. Afaf tell you when you
7 called him?

8 A. Well, I just said, what's going on? And he
9 said, just answer the questions that they going to do
10 and don't answer anything else but my questions. That's
11 it.

12 Q. He told you not to answer any other
13 questions?

14 A. No. He didn't tell me anything.

15 Q. Well, what did he tell you?

16 A. I don't know. Just...

17 Q. Okay. Mr. Suh, did you -- let me show you
18 what's attached to Exhibit 1 -- it's a little bit
19 confusing -- of this subpoena duces tecum which is
20 called Exhibit 1 of Exhibit 1.

21 MS. DOPPELT: Ms. Miller, that's the letter.

22 Thank you.

23 BY MS. DOPPELT:

24 Q. Mr. Suh, can you see this letter now?

25 A. Yes.

- 1 Q. How did that letter come into being?
- 2 A. Well, I signed it and mailed it in.
- 3 Q. You mailed it?
- 4 A. E-mailed it and he printed it out, I guess.
- 5 I don't know.
- 6 Q. Who wrote this letter?
- 7 A. He wrote it. I just signed it and then sent
- 8 it in.
- 9 Q. Is that your signature? At the bottom, is
- 10 that your signature? Mr. Suh?
- 11 A. Yes.
- 12 Q. Did you sign it?
- 13 A. Yes.
- 14 Q. Did you read it before you sent it back?
- 15 A. Well, it's just regarding to the Afaf,
- 16 right?
- 17 Q. It's right in front of you. You can read it
- 18 now if you need a few minutes to remind you what it
- 19 says.
- 20 A. Yes.
- 21 Q. You see the design in the middle that says
- 22 Afaf Aviation?
- 23 A. Yes, I see it. That's his logo.
- 24 Q. How did that get in the letter?
- 25 A. Excuse me?

Exhibit I

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Registration No.
5,665,928 for the Mark AFAF AVIATION &
Design

Badawi Aviation, LLC,

Petitioner,

-vs- Cancellation No.:
92072819

Afaf Aviation, LLC,

Respondent.

-----X

DATE: August 20, 2020

TIME: 10:38 A.M.

EXAMINATION of a Non-Party
Witness, MARCRIS BUCHANAN, taken by the
Petitioner, pursuant to a Subpoena, held
remotely via video conference, before John
A. Lugo, a Notary Public of the State of
New York.

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BUCHANAN

9:00 a.m., and the deposition today at 11:00 at 9:05. Those are the two e-mails that I have from your guys.

Q. Okay, thank you very much.

MS. DOPPELT: Can you show Mr. Buchanan Exhibit D, page 32.

Q. Mr. Buchanan, can you see that?

A. Yes.

Q. Can you tell me what that is?

A. This is saying to whom it may concern, that these people are employed at Positive Rate Gear Up.

Q. Is that your signature?

A. Yes.

Q. Did you write this letter?

A. Yes.

Q. When did you write it?

A. I can't recall.

Q. Do you know why you wrote it?

A. Because these people wanted reference from me for either a job or whatever they were moving on to.

Q. Did you send a copy of this letter to Mr. Afaf?

1 BUCHANAN

2 A. I don't think I sent it to him.
3 I think I gave it to him.

4 Q. Was that this year?

5 A. No, it wasn't this year. I
6 don't know.

7 Q. Mr. Buchanan, I'm going to show
8 you now Exhibit E, which is page 33.

9 A. Okay.

10 Q. Can you see that, Mr. Buchanan?

11 A. Yes.

12 Q. Can you tell me what that is?

13 A. That was a letter that was
14 written. I think Mohcine told me about
15 this. I can't remember where we were, but
16 he told me about this, and he said you can
17 verify this. So, that was the letter.

18 Q. What did Mr. Afaf tell you?

19 A. He just said that somebody had
20 his logo and he wanted to verify that I was
21 there when he was starting his logo stuff.
22 Because he actually started -- I guess he
23 always wanted to have a flight school, I
24 don't know, but he asked me all the
25 information how I started my flight school

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BUCHANAN

and I relayed to him how I started it. It wasn't a big issue.

Q. So, where did the letter come from?

A. The letter came from my office.

Q. Who wrote it?

A. He wrote it, I signed it.

Q. Mr. Afaf, you mean?

A. Yes, we sat there and discussed what he was writing and I said okay, I verified that and that's it.

Q. Was he at your office at the time?

A. No, I don't think we were in the office. I can't remember where we were, but we weren't there. We met up somewhere when he called me about it.

Q. When was that?

A. I don't know. A year ago. Not this year. Maybe last year. I think it was last year sometime.

Q. What did he tell you when you met?

A. He just said somebody has his

Exhibit J

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Registration No. 5,665,928
for the Mark **AFAF AVIATION & Design**

Badawi Aviation, LLC,

Petitioner,
vs.

Cancellation No: 92072819

Afaf Aviation, LLC,

Respondent.

PETITIONER'S FIRST REQUESTS FOR ADMISSION TO RESPONDENT

Pursuant to Rule 36, Federal Rules of Civil Procedure, and 37 CFR §2.120, Petitioner Badawi Aviation, LLC ("Badawi") hereby propounds the following Requests for Admission to Respondent Afaf Aviation, LLC ("Afaf").

INSTRUCTIONS

Afaf is requested to admit or deny the truth of each of the statements of fact hereinafter stated. Afaf is instructed that:

1. Each of the matters for which an admission is requested shall be deemed admitted unless Afaf responds otherwise within thirty (30) days from the date hereof.
2. If Afaf admits a statement, Afaf shall do so by placing the word "Admit" or "Admitted" under the statement. If Afaf denies a statement, Afaf shall do so by placing the word "Deny" or "Denied" under the statement and setting forth in detail the basis upon which Afaf denies each such statement. If Afaf objects to a statement, Afaf shall do so by writing

“Objection” under the statement and then setting forth the basis of the objection in sufficient detail that the TTAB may rule on the objection.

3. Lack of information or knowledge is not the basis for denial unless it is stated that reasonable but unsuccessful inquiry has been made to discover the truth of the statement. It is also not a basis to deny a statement by claiming that the statement presents a genuine issue of fact to be determined at trial.


4. If, in response to any statement, it is Afaf’s position that the statement is true in part or as to some items but not true in full or as to all items, then answer separately as to each part or item, admitting those parts which are true and denying those parts not admitted and explaining why they are denied.


5. To the extent Afaf deems all or part of any statement contained herein objectionable, Afaf shall state each part of the statement to which objection is made, and the specific grounds for the objection.

DEFINITIONS

1. The terms “you,” “your,” or “Respondent” shall mean Afaf Aviation, LLC, as well as any predecessor, successor, division, subsidiary, parent corporation, officer, director, shareholder, employee, or principal thereof, and/or any attorney or other agent acting on its behalf.

2. The term “us,” “our,” or “Petitioner” shall mean Badawi Aviation, LLC, as well as any predecessor, successor, parent, division, subsidiary, officer, director, shareholder, employee, or principal thereof, and/or any attorney or other agent acting on its behalf, and including Flight Ready Aviation, LLC.

3. The term "Petitioner's Mark" shall mean the mark:  , either in color or black and white, either with or without the words, and any mark substantially similar thereto.

4. The terms "Respondent's Mark" shall mean the mark  , as shown in U.S. Registration Number 5,665,928, either in color or black and white, either with or without the words, and any mark substantially thereto.

5. As used herein, the term "us," "our," or "Badawi" shall mean Badawi Aviation, LLC, as well as any predecessor, successor, parent, division, subsidiary, officer, director, shareholder, employee, or principal thereof, and/or any attorney or other agent acting on its behalf.

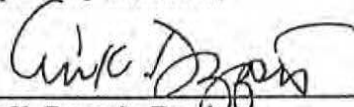
REQUESTS FOR ADMISSION

1. Admit that you did not use Respondent's Mark prior to August 2014.
2. Admit that you did not use Respondent's Mark prior to 2015.
3. Admit that you did not use Respondent's Mark prior to 2016.
4. Admit that you did not use Respondent's Mark prior to 2017.
5. Admit that you did not create the design for Respondent's Mark.
6. Admit that you were aware of Petitioner's Mark prior to 2017.
7. Admit that you were aware of Petitioner prior to 2017.
8. Admit that Respondent's Mark resembles Petitioner's Mark.

9. Admit that the design in Respondent's Mark is substantially the same as the design in Petitioner's Mark.

Dated: February 10, 2020

Respectfully submitted,



Ava K. Doppelt, Esquire
Allen, Dyer, Doppelt
& Gilchrist, P.A.
255 South Orange Avenue
Suite 1401
Orlando, Florida 32801
Phone: 407 841-2330
Fax: 407 841-2343

Attorney for Petitioner
BADAWI AVIATION, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 10, 2020, a copy of the foregoing was served via Email on the following:

Todd Wengrovsky, Esq.
Law Offices of Todd Wengrovsky, PLLC
285 Southfield Rd. Box 585
Calverton, NY 11933
contact@twlegal.com

Attorney for Respondent
AFAP AVIATION, LLC

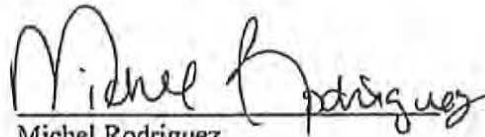

Michel Rodriguez

Exhibit K

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

-----X
BADAWI AVIATION, LLC,

Petitioner,

**REGISTRANT'S
ANSWERS TO
REQUESTS FOR
ADMISSION**

-against-

Proceeding No. 92072819

AFAF AVIATION,

Registrant.
-----X

Registrant, in response to Petitioner's Requests for Admission states, as follows:

1. Denied, see Registrant's Responses to Requests for Production.
2. Denied, see Registrant's Responses to Requests for Production.
3. Denied, see Registrant's Responses to Requests for Production.
4. Denied, see Registrant's Responses to Requests for Production.
5. Denied, see Registrant's Responses to Requests for Production.
6. Denied, with the comment that Registrant learned of Petitioner and its advertising in November, 2019.
7. Denied, with the comment that Registrant learned of Petitioner and its advertising in November, 2019.
8. Denied.
9. Denied.

Dated: April 7, 2020
Calverton, New York

/s/ Todd Wengrovsky
Todd Wengrovsky - TW4823
Law Offices of
Todd Wengrovsky, PLLC.
285 Southfield Road, Box 585
Calverton, NY 11933
Tel (631) 727-3400
Attorney for Registrant

Exhibit L

1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
3

4 In the Matter of Trademark Registration
5 No. 5,665,928 for the MARK AFAF AVIATION & DESIGN

6 BADAWI AVIATION, LLC,
7 Petitioner,

8 vs.

9 AFAF AVIATION, LLC, Cancellation
10 Respondent. No. 92072819

11 DEPOSITION OF BADREDDINE MESSELEKA

12 (Conducted Via Teleconference)

13 DATE: August 20, 2020

14 TIME: 9:51 a.m. to 10:32 a.m.

15 PURSUANT TO: Notice by counsel for Petitioner
16 for purposes of discovery, use at
17 trial or such other purposes as
18 are permitted under the Federal
19 Rules of Civil Procedure

20 REPORTED BY: Aaron T. Perkins, RMR, CRR, CRC
21 Notary Public, State of
22 Florida at Large

23 Pages 1 to 32
24
25

1 Q. Did you sign a letter that Mr. Afaf sent you?

2 A. No. I wrote the letter. I wrote it, and I
3 texted it to him.

4 Q. How do you know what to put in it?

5 A. I just said what I know about Afaf Aviation.
6 If you look at the letter, it has only two dates.
7 That's it.

8 Q. What two dates?

9 A. 2017 and '13, when he started, you know,
10 making this business, building this business, and when
11 he actually opened it. And I only worked for him when
12 he opened the business, because legally you cannot fly
13 for someone who does not have a business operating
14 certificate, you know. It's illegal. I worked for
15 him --

16 Q. What is a business operating certificate?

17 A. It's like any business. You can't just open a
18 store and start selling stuff. You have to have a
19 certificate for that business, right?

20 Q. Do you mean a corporate registration?

21 A. I think that's what it's called, yeah.

22 Q. Okay.

23 A. You have to have permission from the FFA to be
24 able to fly people at an airport too, you know.

25 Q. Do you know when he got that?

1 A. 2017, because that's when I worked for him.

2 Q. So you can't teach people how to fly unless
3 you have that, correct?

4 A. It's not that you can't teach. You can get a
5 flight instructor certificate and you can teach people,
6 but you have to work for someone who has an operating
7 certificate. You cannot just buy your airplane and
8 start teaching people how to fly, you know.

9 Q. Did Mr. Afaf work for somebody who had an
10 operating certificate?

11 A. No. He owned -- he had his own, and he
12 also -- I think he worked for Positive Rate Gear Up. It
13 was like flying a -- there was a flying club in New York
14 that's called Positive Rate Gear Up. I think he worked
15 for them. They used to work together.

16 Q. When you worked for him, did he work for them?

17 A. I think they used to do business together, I
18 think.

19 Q. What kind of business did they do together?

20 A. Flying. And I'm not sure how they were doing,
21 but, you know, maybe advertising or --

22 Q. Was Mr. Afaf in college with you?

23 A. Yes.

24 Q. Did he graduate at the same time you did?

25 A. Yes.

1 Q. So in 2015?

2 A. Yes.

3 Q. Could you have taught people flying before you
4 graduated from college?

5 A. No.

6 Q. When were you qualified to teach people how to
7 fly?

8 A. 2016.

9 Q. What happened in 2016?

10 A. I got my license to allow me to do it. I got
11 my instructor's license.

12 Q. Do you know when Mr. Afaf got his instructor's
13 license?

14 A. I'm not sure.

15 Q. Was it around the same time as you or --

16 A. It was after I graduated college. I went to
17 different schools to get the license, you know.

18 Q. Where did you go?

19 A. I went to a lot of places. I went to Dallas,
20 I went to California, multiple places to get my flight
21 hours and the certificates I needed.

22 Q. What years were those?

23 A. I can't remember, to be honest with you, but I
24 think in 2016 I started mine. It should be 2016, yeah.

25 Q. And did you come back to New York in 2017?

Exhibit M

1 A. Yes.

2 Q. What documents did you see?

3 A. That logo.

4 Q. Did you ever see his registration with the
5 state of New York?

6 A. I think he was registering, so I also -- I
7 also -- I don't know. That's it. That's all I can tell
8 you. I don't remember after that. I know he was
9 registering with that logo.

10 Q. Did you see any other trademark documents?

11 A. I don't know.

12 Q. Have you corresponded with Mr. Afaf about
13 this legal proceeding?

14 A. I don't know.

15 Q. You don't know if you corresponded?

16 A. He just told me just my lawyer is going to
17 call you and that's it. I thought I was going to answer
18 questions with the lawyers. That's it.

19 Q. Do you have the e-mail with Mr. Afaf about
20 this proceeding?

21 A. No.

22 Q. Did you look for it?

23 A. No.

24 Q. Do you know whether you deleted it or not?

25 A. I don't know.

EXHIBIT K

MOTION TO REOPEN PART 4 of 4

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Electronic System for Trademark Trials and Appeals

Motion for Summary Judgment

Navigation: [Party \(confirm-pno.jsp\)](#) - [Paper \(motion-or-paper.jsp\)](#) - [Summary Judgement \(summary-judgment.jsp\)](#) - Error
Untimely

ESTTA v.3.10.0
PTO-2151 (Exp. 07/31/2020)
OMB No. 0651-0040 (Exp.
07/31/2020)

Error - Untimely Motion

A motion for summary judgment may not be filed prior to the service of the filer's initial disclosures (except for a motion asserting claim or issue preclusion, or lack of jurisdiction of the Trademark Trial and Appeal Board), and must be filed prior to the deadline for pretrial disclosures for the first testimony period, as originally set or as reset if reset prior to the deadline. The information provided by the filer on the previous page indicates that the motion is untimely.

[Cancel](#)

10/21/2020 09:02 PM EDT

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Motion for Summary Judgment

Navigation: [Party \(confirm-pno.jsp\)](#) - [Paper \(motion-or-paper.jsp\)](#) - [Summary Judgment \(summary-judgment.jsp\)](#) - Error Untimely

ESTTA v.3.10.0
PTO-2151 (Exp. 07/31/2020)
OMB No. 0651-0040 (Exp. 07/31/2020)

Error - Untimely Motion

A motion for summary judgment may not be filed prior to the service of the filer's initial disclosures (except for a motion asserting claim or issue preclusion, or lack of jurisdiction of the Trademark Trial and Appeal Board), and must be filed prior to the deadline for pretrial disclosures for the first testimony period, as originally set or as reset if reset prior to the deadline. The information provided by the filer on the previous page indicates that the motion is untimely.

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